

**MINUTES OF THE MEETING OF THE CITY COUNCIL**

Wichita, Kansas, May 4, 2004  
Tuesday, 9:05 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp; present.

Cathy Holdeman, Interim City Manager; Gary Rebenstorf, Director of Law; Karen Sublett; City Clerk; present.

Rosella Taylor, Baha 'I, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the regular meeting of April 15, 2004 Special Meeting and the minutes of the April 20, 2004 Regular Meeting were approved 7 to 0.

**AWARDS AND PRESENTATIONS**

Proclamations	Proclamations were previously submitted.
Student Ambassadors	Student Ambassadors to Cancun, Mexico were recognized.

**PUBLIC AGENDA**

Pat Lehman	<b><u>Pat Lehman-ZON 2004-06-Zone Change.</u></b>
------------	---

Ms. Lehman stated that she resides at 515 Menlo and is asking that the Council deny the proposed zoning change. Stated that her neighborhood is confronted with noise and dust from the heavy construction and that they cannot live like this. Stated that some of the debris is less than 60 feet away from homes and there are a lot of small children in this neighborhood.

**UNFINISHED BUSINESS**

<b>CONDEMNATION</b>	<b><u>REPAIR OR REMOVAL OF UNSAFE STRUCTURES 643 NORTH GORDON. (DISTRICT VI)</u></b>
---------------------	--

Kurt Schroeder	Superintendent of Central Inspection reviewed the item.
----------------	---

Agenda Report No. 04-0380A

This property was before the Board of Code Standards and Appeals (BCSA) on February 2, 2004. No repairs had been made to the property, and the BCSA recommended 10 days to start demolition and an additional 10 days to complete.

The case was before Council for a hearing on April 13, 2004. Attorney Rodney Busey, representing the owner was present and Council adopted a motion to defer this case for two weeks when Mr. Busey would return with a plan of action to pay the taxes and repair or demolish the structure. They also moved that the structure be secured and the premises cleaned by April 16, 2004.

The structure has been secured and some debris removed from the premises. No other work has been done.

Taxes: The 2000, 2001, 2002 and 2003 taxes are still delinquent in the amount of \$3,490.46. There are special assessments for weed mowing, lot cleanup and emergency board up in the amount of \$1,357.23.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 452

The owner has been notified of the date and time of this hearing.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--

Fearey moved that the resolution declaring the building a dangerous and unsafe structure be adopted; allow thirty (30) days to complete the demolition of the structure or sixty (60) days to complete required repairs to the exterior of the structure should an acceptable repair plan be presented. Any extensions of time granted to demolish or repair the structure would be conditioned on the following: (1) All taxes have been paid to date, as of May 4, 2004; (2) the structure has been secured as of May 4, 2004 and will continue to be kept secured, and (3) the premises are mowed and free of debris as of May 4, 2004 and will be so maintained during renovation. If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owners of these findings.

--carried

Motion carried 7 to 0.

## RESOLUTION NO. 04-202

Resolution finding that the structure described as Lots 9-11, Block 4, J.O. Davidson's Second Addition Wichita, Sedgwick County, Kansas, commonly known as 643 North Gordon, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Fearey moved that the Resolution be adopted. Motion carried 7 to 0.

## CONDEMNATION

### **REPAIR OR REMOVAL OF DANGEROUS & UNSAFE STRUCTURES-6155 S. KANSAS. (DISTRICT III)**

Kurt Schroeder

Superintendent of Central Inspection reviewed the item.

Agenda Report No. 04-0380A (b)

This property was before the Board of Code Standards and Appeals (BCSA) on February 2, 2004. No repairs had been made to the property, and the BCSA recommended 10 days to start demolition and an additional 10 days to complete.

The case was before Council for a hearing on April 13, 2004. Owner Jesse Garton and prospective buyer, Tony Klingman were present and Council adopted a resolution allowing 2 weeks to complete the sale of the property, and if sold the new owner must return to Council.

The contract has been signed and closing will be on or about April 24. The buyer is already working on cleaning up the lot and will tear the structure down once the sale is completed.

Taxes: The 2001, 2002 and 2003 taxes are delinquent in the amount of \$1,608.85.

The owner has been notified of the date and time of this hearing.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--carried

Lambke moved to grant a 30-day extension for demolition. Motion carried 7 to 0.

## RESOLUTION NO. 04-203

Resolution finding that the structure described as: Lot 7, Block 7, South Hydraulic Garden's, Wichita, Sedgwick County, Kansas, commonly known 6155 South Kansas, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Lambke moved that the Resolution be adopted. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 453

## NEWSPAPER

### RESOLUTION DESIGNATING OFFICIAL NEWSPAPER.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 04-0299A.

On April 6, 2004, the City Council, by a vote of four to two, with one member abstaining due to declared conflict, determined to designate the Wichita Eagle as the official newspaper for the City's legal publications.

Under applicable Kansas statutes, including K.S.A. 64-101 and K.S.A. 12-1651, a formal Resolution of the City Council is required to finalize and implement the foregoing designation.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Council Member Gray

Council Member Gray stated that he would have to abstain due to conflict of interest.

Motion--

Mayans moved that the Resolution designating the Wichita Eagle as the City of Wichita's official newspaper for legal publications be adopted. Motion carried 6 to 0. (Gray abstained, conflict of interest)

--carried

### RESOLUTION NO. 04-204`

A Resolution designating the Wichita Eagle as the official City Newspaper of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Lambke, Martz, Schlapp, Mayans. (Gray abstained, conflict of interest)

## HEALTH/BENEFIT

### HEALTH AND BENEFIT CONSULTANT CONTRACT.

Kelly Carpenter

Acting Finance Director reviewed the item.

Agenda Report No. 04-0412A

The City Council directed staff to receive competitive bids for the City of Wichita's 2005 health insurance plan. To initiate this process, the Health Insurance Advisory Board met. The Board approved using an independent Health and Benefits Consultant to assist in the selection process of a health insurance plan. The Health Insurance Advisory Board approved the Request for Proposal and authorized the Department of Finance to issue the RFP. In conjunction with the Request for Proposal process to select a Health and Benefits Consultant, staff contacted the Insurance Association of Life and Health Underwriters to determine if any member would consider this project. There was not an interest at this time.

The Request for Proposal (RFP) was issued through the City's Purchasing system. The RFP requested the vendor to:

- Review the existing benefit plan and make recommendations for cost-effective improvements.
- Survey and prioritize health care and benefit plan needs.
- Establish strategic goals and objectives for 2005 health care and benefit plans.
- Develop competitive bid specifications for the 2005 City Health Plan (medical, vision and prescription). The RFP requested the consultant to review other City employee benefit programs (such as dental, group term life, disability etc.) and determine if these products are still viable and competitive.
- Screen vendors and assist with final recommendations for providers and contract terms.

A summary of the Request for Proposal evaluation criteria:

- The firm has experience and expertise based on past projects to carry out the project.
- The quality of the firm's professional staff assigned to the project is commensurate with project needs.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 454

- The firm has experience with health and benefit plans, particularly as they relate to municipal corporations.
- The firm has experience with evaluating consumer-driven health care plans in general.

A bid notice was published in the official newspaper on January 28, 2004, the RFP was placed on the City's e-Procurement web site and notices were mailed to 95 different firms across the United States. A total of 11 written proposals were received.

A 10 member Screening and Selection Committee was created to review the proposals. The Committee was comprised of representatives from: City Manager's Office; Department of Finance; Personnel; Department of Law; retiree; and the four employee bargaining groups (Employees Council; Fraternal Order of Police; International Association of Fire Fighters and Service Employees Union). The Screening and Selection Committee also comprised a majority of the members of the Health Insurance Advisory Committee.

The Screening and Selection Committee reviewed all eleven written proposals and independently ranked each proposal based on the ranking criteria listed in the RFP. The top four firms were selected to make detailed presentations to the Screening and Selection Committee. The detailed presentations were held March 31, 2004. Following the detailed presentations, the Screening and Selection Committee independently ranked the presentations and proposals based on the ranking criteria listed in the RFP.

The Screening and Selection Committee recommends award of the contract to the firm of Hilb Rogal & Hobbs (formerly Dulaney, Johnston and Priest) of Wichita based on experience of previous projects and the staff as well as price. Hilb, Rogal & Hobbs (HRH) was the lowest cost of the final four at \$88,000. In addition, HRH agreed to place 10 percent of their fee "at-risk" subject only to the full satisfaction of the City. HRH proposed using their lead consultant who has twenty years experience in advising clients on benefit matters, a Fellow of the Society of Actuaries to serve as the expert in the evaluation of health care claims data and a Registered Pharmacist to assist in evaluating the current prescription plan and competing pharmacy vendors.

The Health and Insurance Advisory Board has approved the selection of Hilb, Rogal and Hobbs to provide support in the selection of the City of Wichita's 2005 health insurance plan. The advisory board will participate in conjunction with the Department of Finance and the Consultant in the selection of the 2005 health insurance plan.

As an alternative, the City Council could appoint two City Council members to serve on the advisory board for a limited period during the selection of the 2005 health insurance plan.

The contract would be for a not to exceed fee of \$88,000. Funds are budgeted in the Group Health Insurance Fund to pay for a consultant.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Mayans moved that the contract be approved; the appropriate signatures authorized and that Council Member Martz and Mayor Mayans be appointed to serve on the Health Advisory Committee during the selection of 2005 health insurance plan. Motion carried 7 to 0.

--carried

**ZON2004-06**

**ZON2004-06-ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO LIMITED INDUSTRIAL WITH A PROTECTIVE OVERLAY DISTRICT TO LIMIT PERMITTED USES AND PROVIDE SCREENING/BUFFERING, GENERALLY LOCATED SOUTH OF 37<sup>TH</sup> STREET NORTH AND WEST OF BROADWAY. (DISTRICT VI)**

John Schlegel

Planning Director reviewed the item.

Agenda Report No. 04-0426A

MAPC Recommendations: Approve, subject to provisions of Protective Overlay #133. (7-2)  
DAB Recommendations: Approve, subject to provisions of Protective Overlay #133. (9-0-1)  
MAPD Staff Recommendations: Approve, subject to provisions of Protective Overlay #133.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 455

The applicant requests a zone change from “SF-5” Single-Family Residential to “LI” Limited Industrial with a Protective Overlay District to limit permitted uses and provide screening/buffering on a 10.1 acre unplatted tract located south of 37th Street North and west of Broadway. The applicant originally proposed that the subject property be limited to the following uses: outdoor storage of concrete products and materials related to the manufacturing of concrete products, and accessory structures and uses related to the storage and/or maintenance of stored materials and products. The applicant also proposed that a 6 to 8-foot high concrete/masonry wall be provided along the south and west property lines and that a 50-foot deep landscape buffer with trees planted every twenty feet (including existing trees) be provided along the south and west property lines. At the District Advisory Board hearing on March 17, 2004, the applicant agreed in principle to modifications to the Protective Overlay that are reflected in the “Analysis” section of this report. The applicant’s primary objection to the Protective Overlay modifications was requiring a 50-foot landscape buffer on their existing property.

The surrounding area is characterized by a mixture of industrial and residential uses, with the industrial uses primarily located to the east. Most of the properties to the north, south, and west are zoned “SF-5” Single-Family Residential and are developed with single family residences, but are separated from the subject property by drainage ditches on the north and west. Most of the properties to the east are zoned “LI” Limited Industrial and are developed with various industrial uses.

At the DAB Hearing on March 17, 2004, and the MAPC hearing on March 25, 2004, numerous nearby residents spoke in opposition to the request citing concerns with community aesthetics, noise, dust, safety, reduced property value, etc. Both the DAB (9-0-1) and the MAPC (7-2) recommended approval of the zone change to “LI” Limited Industrial subject to the following provisions of Protective Overlay District #133:

1. The subject property shall be platted within one year but prior to use of the subject property for storage of finished concrete products. The plat shall include an approved drainage plan that prevents the run-off of any concrete products or materials into the adjacent creek on the west.
2. Use of the subject property shall be limited to the outdoor storage of finished concrete products.
3. The height of stored finished concrete products shall be limited to 10 feet within 100 feet of the wall and 15 feet elsewhere on the property.
4. A concrete/masonry wall at least eight feet in height shall be constructed parallel to the south and west property lines of the subject property and shall be set back at least 50 feet from the property line so that the required landscape buffer can be planted between the wall and the property line.
5. There shall be a 50-foot landscape buffer maintained along the south and west property lines of the subject property in conjunction with the solid screening wall. This buffer shall provide the equivalent of, at minimum, one tree per 20 feet. The existing tree rows may be used to meet the condition of one tree per 20 feet if the existing trees are located on the subject property. Where there are gaps, a double staggered row of a mixture of evergreen and deciduous trees shall be installed with one tree per 40 feet in each row with the planting size of the trees meeting the requirements of the landscape ordinance.
6. A site/landscaping plan for the screening wall and landscape buffer shall be submitted for approval by the Planning Director within 60 days of approval of the zone change request. The subject property shall be developed in general conformance with site/landscaping plan, and all improvements shown on the plan shall be completed prior to use of the subject property for the storage of concrete products.
7. The existing fence, trash, and debris along the south and west property lines shall be removed prior to use of the subject property for the storage of concrete products.
8. Blowing dust from the site shall be minimized by routinely spraying water on unpaved surfaces.
9. Within 60 days of approval of the zone change request, a voluntarily offered restrictive covenant shall be submitted that places the requirements of provisions 3-8 of the Protective Overlay on the applicant’s existing property to the east. The restrictive covenant shall require completion of improvements to the existing property to the east no later than 30 days after the initiation of storage of finished concrete products on the property subject to rezoning.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 456

Written protest petitions have been received from property owners representing 35.84 percent of the land area within 200 feet of the subject property as well as from numerous other property owners that own land located more than 200 feet from the subject property. Since the area of land owned by protestors exceeds 20 percent of the land area within 200 feet of the subject property, approval of the zone change request will require a three-fourths majority vote of the City Council (6 affirmative votes).

Council Member Fearey Council Member Fearey stated that she did meet with the applicant and with Ms. Lehman and that the applicant has seen that they need to be a better neighbor. Stated that some of the concrete pipes that are stored at the south edge of the current property have obviously not been moved for many years, they are full of debris and the fence is falling down. The day that she was there, there were nine tires that have been there for several weeks and there are branches that have not been picked up. Stated that she feels that this issue is not any closer to being resolved then it was before it started. They had come for this zoning request a year ago and MAPC denied it because they had been using the subject property illegally and were told then that they needed to be better neighbors.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion-- Fearey moved that the Council deny the zoning case 2004-06 with the findings to be brought back to the Council at the May 11, 2004 Council Meeting. Motion carried 7 to 0.  
--carried

## NEW BUSINESS

### VISIONING

### VISIONING PARTNERSHIP PROJECT.

Cathy Holdeman Interim City Manager reviewed the item.

Agenda Report No. 04-0434

A request has been made to the City of Wichita to participate in the development of a community visioning process for the greater Wichita area. The Wichita Area Chamber has defined a number of concerns including the need for economic, human and cultural diversity. Another concern is the perception that our immediate regional competitors have successfully crafted and are implementing community-wide re-engineering and growth plans that are leaving our region behind. Additionally, the Chamber has defined the need to establish a community-based and supported vision, strategic plan and implementation program to fully avail this community of its assets and to determine the competencies and resources to excel in the future. To address these, and other concerns, the City of Wichita is being asked to support a strategic visioning process to assist past leaders and newly emerging leaders with defining a direction for the greater Wichita community.

The community visioning process would be broad-based and engage business and community leaders, along with general citizenry, to craft a future vision for the greater Wichita area. Through this process strengths and weaknesses would be identified along with opportunities and threats in relationship to our principal regional competitors. The result would be a community strategic plan designed to achieve the greater Wichita region's new vision by engaging existing resources at new levels of focus/collaboration or determining and pursuing new regional community competencies and resources.

As a part of the visioning process and the resulting community strategic plan, it will be necessary to develop an implementation program that engages businesses, governments, organizations and willing volunteers. The implementation program needs to include sophisticated monitoring and benchmark components to assure that all strategic plan initiatives are successfully carried out. It also needs to develop communication mediums to communicate the successful efforts throughout the life of this program.

The City of Wichita, in collaboration with Sedgwick County, the Kansas Health Foundation, the Wichita Community Foundation and the Wichita Downtown Development Corporation (WDDC) have

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 457

been asked to fund this visioning effort. The Wichita Area Chamber of Commerce will take a leadership role in the implementation of the plan.

The financial contribution request to the City of Wichita for this project is \$75,000 to be matched by like amounts from Sedgwick County and WDDC. The contributions from the Foundations are in the process of being finalized. The funding source for this project is General Fund Reserves (One-time dollars will be transferred into the General Fund for this and other projects.)

The City of Wichita will enter into a Memorandum of Understanding (MOU) with the Wichita Area Chamber of Commerce, which outlines the Scope of Services and schedule for payment. The Law Department will approve the MOU as to form.

- Harvey Sorenson Mr. Sorenson stated that he is here on behalf of the Wichita Area Chamber of Commerce and their funding partners to talk about the strategic plan and vision for the City of Wichita. Stated that they are proposing a community wide effort to develop a vision for the community and a strategic plan with tactical implementations, so that they may achieve their vision over the next 5, 10, and 15 years. Stated that they are doing this at this time because they believe that our community is at a crossroads, we need to develop a community road map, a rallying vision, build a social and community capital necessary to carry out the will of the people and then bridge from 2004 to the middle of our century. Stated that community leaders and citizens will be involved in talking to each other and developing ideas for the future. Stated that as part of this process they will select a consultant and will expect to conclude that selection on Monday. Stated that they have a \$350,000.00 budget for this project and have the support of the Wichita Community Foundation, who has made a grant of \$75,000.00 and have the support of the Wichita Downtown Development Corporation who has made a \$75,000.00 commitment. He is here today to ask the City Council to be one of the five funding partners with a contribution of \$75,000.00.
- Council Member Martz Council Member Martz requested that the Kansas World Trader Center be involved and included in this project.
- Mayor Mayans Mayor Mayans stated that he feels it is very important that our community have a defined direction to move forward on and to have a common vision.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.
- Motion--  
--carried Mayans moved that the participation in the visioning process be authorized; funding be approved and necessary signatures for the Memorandum of Understanding be authorized. Motion carried 7 to 0.

## **PRESBYTERIAN MANORS, INC.**

## **PUBLIC HEARING AND ISSUANCE OF HEALTH CARE FACILITIES REFUNDING REVENUE BONDS-PRESBYTERIAN MANORS, INC.**

Allen Bell Director of Economic Development reviewed the item.

Agenda Report No. 04-0435

On April 13, 2004, City Council approved a six-month Letter of Intent to issue Health Care Facilities Refunding Revenue Bonds in the amount not-to-exceed \$24,000,000, to Presbyterian Manors, Inc ("PMI"). Bond proceeds will be used primarily to refinance currently existing debt and pay costs of issuance. A small portion of the bonds will be used to construct improvements for certain PMI facilities in Kansas. The company is now requesting the City to issue its Health Care Facilities Refunding Revenue Bonds in the amount not-to-exceed \$24,000,000.

Since 1990, the City of Wichita has issued refunding and improvement revenue bonds for the benefit of Presbyterian Manors, Inc., a Kansas not-for-profit corporation, to finance or refinance PMI facilities located throughout Kansas. Through a series of inter-local agreements, the City of Wichita has agreed to serve as a "host" bond issuer in order to facilitate consolidated financings of PMI facilities in Kansas.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 458

PMI has twelve retirement community facilities serving Kansas, 765 licensed intermediate care (IMF) and skilled nursing (SNF) beds to provide service and health care for Kansas' older adults. Its Kansas facilities have over 1 million square feet of various types of living and health care space on 143 acres of Kansas land. PMI employs 1,155 individuals in Kansas including 21 employees at their corporate headquarters and 92 employees at its 139,400 square foot retirement community in Wichita. PMI serves over 1,700 senior adult residents in Kansas and Missouri.

The proposed bond proceeds will be used to refinance PMI facilities in Arkansas City, Dodge City, Emporia, Fort Scott, Hutchinson, Kansas City, Lawrence, Newton, Salina and Topeka. In addition, bond proceeds will be used to finance improvements to the PMI facilities in Kansas City and Salina.

An estimated analysis of the uses of project funds is:

## USES OF FUNDS

Refunding of Existing Bonds	\$20,166,808
New money capital project	4,200,000
Debt service reserve fund	1,625,000
Costs of issuance including underwriter's discount	661,650
Contingency for other potential costs	1,268,777
 Total cost of Refinancing Project	 \$27,922,235

Ziegler Capital Markets Group, a division of B.C. Ziegler and Company in Chicago, Illinois, has agreed to underwrite the bonds. The firm of Hinkle Elkouri Law Firm, L.L.C., serves as bond counsel in the transaction. Presbyterian Manor, Inc., is in compliance with the Standard Conditions contained in the City's IRB Policy.

Presbyterian Manor, Inc., agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. Presbyterian Manor, Inc., does not request a property tax abatement in conjunction with the IRBs.

Bond documents needed for the issuance of the bonds have been prepared by bond counsel. The City's Attorney's Office will review and approved the form of bond documents prior to the issuance of any bonds. The public hearing held in conjunction with this item is in compliance with the TEFRA Hearing requirement in the federal tax code for tax-exempt bonds. Cities with PMI facilities financed or refinanced by the proposed bond issue will have held TEFRA hearings prior to the issuance of the bonds. In order to give participating cities the time to conduct these proceedings, PMI requests that second reading of the ordinance be set for May 18, 2004.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and on one appeared.

Motion--

Mayans moved that the public hearing be closed; the Ordinance authorizing the execution and delivery of documents for the issuance of Health Care Facilities Refunding Revenue Bonds to Presbyterian Manor, Inc., in an amount not-to-exceed \$24,000,000 be placed on first reading, with second reading being set for May 18, 2004; the Bond Purchase Agreement be approved; and the necessary signatures be authorized. Motion carried 7 to 0.

--carried



# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 459

## ORDINANCE

An Ordinance authorizing the City of Wichita, Kansas to issue its Health Care Facilities Refunding and Improvement Revenue Bonds, Series III, 2004 (Presbyterian Manors, Inc.) in the aggregate principal amount of not to exceed \$24,000,000 for the purposes of refunding certain outstanding City of Wichita, Kansas, Bonds and paying the cost of renovating and equipping certain health care facilities; prescribing the form and authorizing execution of an eighth supplemental bond indenture by and between the City and BNY Trust Company of Missouri, as Bond Trustee; prescribing the form and authorizing the execution of a seventh supplemental lease agreement by and between Presbyterian Manors, Inc. and the City; approving the form of the guaranty agreement to be executed in connection with the issuance of said bonds; authorizing execution of a tax compliance agreement by and among the issuer, the bond trustee and Presbyterian Manors, Inc.; authorizing execution of an escrow deposit agreement by and among the issuer, BNY Trust Company of Missouri, as escrow trustee, and Presbyterian Manors, Inc.; and authorizing the execution of a bond purchase agreement by and between the City, Presbyterian Manors, Inc. and Ziegler Capital Markets Group, as underwriter of the bonds, introduced and under the rules laid over.

## CONDEMNATIONS REPAIR OR REMOVAL OF DANGEROUS & UNSAFE STRUCTURES. (DISTRICTS I, III, IV AND VI)

Kurt Schroeder Superintendent of Central Inspection reviewed the item.

Agenda Report No. 04-0436

On March 16, 2004 a report was submitted with respect to the dangerous and unsafe conditions on five (5) properties. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on May 4, 2004.

On March 1, 2004, the Board of Code Standards and Appeals (BCSA) held a hearing on the following properties:

<u>Property Address</u>	<u>Council District</u>
a. 4229 East Whitney	III
b. 319 South Erie	I
c. 1225 South Vine	IV
d. 1330 South Millwood	IV
e. 3015 North Park Pl. (Front)	VI

Pursuant to State Statute the Resolutions were duly published twice on March 18, 2004 and March 25, 2004. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of each described property.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Kurt Schroeder Superintendent of Central Inspection stated that recommendation of the BCSA is to proceed with condemnation for items: **(b) 319 South Erie and (e) 3015 North Park Pl.(front).**

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 460

Motion-- Mayans moved that the resolutions declaring the buildings dangerous and unsafe structures be adopted; the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structure be accepted. Any extensions of time granted to repair the structure would be conditioned on the following: (1) All taxes have been paid to date, as of May 4, 2004; (2) the structure(s) has/have been secured as May 4, 2004 and will continue to be kept secured, and (3) the premises are mowed and free of debris as of May 4, 2004 and will be so maintained during renovation for the properties located at **(b) 319 South Erie and (e) 3015 North Park Pl (front)**.  
--carried Motion carried 7 to 0.

## RESOLUTION NO. 04-206

Resolution finding that the structure described as: Lots 27-29, Block 1, Harris & Hoffelds Sub. in Imboden and Oliver's, Wichita, Sedgwick County, Kansas, commonly known as 319 South Erie, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Mayans moved that the Resolution be adopted. Motion carried 7 to 0.

## RESOLUTION NO. 04-209

Resolution finding that the structure described as: Lots 37-38, Block 26, Jones Park Add., Wichita, Sedgwick County, Kansas, commonly known 3015 North Park Place (front), Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Mayans moved that the Resolution be adopted. Motion carried 7 to 0.

### **(a) 4229 East Whitney**

Kurt Schroeder Superintendent of Central Inspection stated that this property has a new owner, Rob Snyder, who is asking for the maximum extension of 60 days to repair the exterior of this property.

Rob Snyder Mr. Snyder stated that the taxes are current and the assessments paid out of escrow.

Motion-- Lambke moved to grant a 60-day extension to complete the repairs, and that the Resolution be adopted.  
-- carried Motion carried 7 to 0.

## RESOLUTION NO. 04-205

Resolution finding that the structure described as: Lot 68, Block P, Planeview Sub. No. 1, Wichita, Sedgwick County, Kansas, commonly known as 4229 East Whitney Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Lambke moved that the Resolution be adopted. Motion carried 7 to 0.

### **(c) 1225 South Vine**

Kurt Schroeder Superintendent of Central Inspection stated that the owner represents Home Vestors and is requesting 60 days to complete the repairs. Stated that the taxes are paid and the mowers are at the property today.

Mr. Bell Mr. Bell stated that he is the new owner and is in the business of revitalizing houses. Stated that he could get this completed in 30 days.

Motion-- Gray moved to grant a 60-day extension to complete the repairs, and that the Resolution be adopted. .  
-- carried Motion carried 7 to 0.

## RESOLUTION NO. 04-207

Resolution finding that the structure described as: E. 99.5 ft. Lot 19 & Exc. s. 8.5 ft. W. 23 ft. Lot 19 & E. 76.5 ft. Lot 21, Block 21 Replat Pt. of John McCormick's Add., Wichita, Sedgwick County, Kansas, commonly known as 1225 South Vine, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Gray moved that the Resolution be adopted. Motion carried 7 to 0.

Council Member Schlapp momentarily absent.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 461

## **(d) 1330 South Millwood**

- Kurt Schroeder Superintendent of Central Inspection stated that Mr. Peterson, the attorney representing the property owners is present and that the property owners wish to tear this structure down and rebuild on the lot. Stated that the taxes are delinquent and there are pending cleanup costs.
- Mr. Peterson Mr. Peterson stated that the taxes and assessments will be paid within 30-days and that his client would like an additional 30-days to demolish the structure.
- Motion-- Gray moved to grant a 30-day extension to pay the delinquent taxes and special assessments and an additional 30 days to demolish the structure; and that the Resolution be adopted. Motion carried 7 to 0.  
--carried

## RESOLUTION NO. 04-208

Resolution finding that the structure described as Lots 22-24-26, Block B, Wheeler's Add., Wichita, Sedgwick County, Kansas, commonly known as 1330 South Millwood, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Gray moved that the Resolution be adopted. Motion carried 7 to 0.

## **PAVE FLORENCE**

### **PAVE FLORENCE FROM ESTHNER TO BOUNOUS. (DISTRICT IV)**

- Chris Carrier Acting City Engineer reviewed the item.
- Agenda Report No. 04-0437
- The signatures on the Petition represent 4 of 7 (57.14%) resident owners and 52.99% of the improvement district area. District IV Advisory Board sponsored an April 7, 2004, neighborhood hearing on the project. The Board voted 8-0 to recommend approval of the project.
- The project will serve a partially developed commercial area located west of West Street, south of Harry.
- The estimated project cost is \$106,000, with the total assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.293 per square foot of ownership.
- State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Ben James Meyers Mr. Meyers stated that he resides at 4224 Esthner and he is going to be taxed for this street and he has paid his taxes for Esthner Street and does not see why he should have to pay again. Stated that the two businesses should pay for this and that the street will not benefit him at all.
- Council Member Gray Council Member Gray explained that there is a formula utilized to pay for special assessments towards road improvements and sewer district improvements and generally every person pays for two side streets. This is a long-standing formula that has been around for many years and it works well.
- Motion-- Gray moved that the Petition be approved; the Resolution be adopted and the Staff Screening & Selection Committee be authorized to select a design engineer. Motion carried 7 to 0.  
--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 462

## RESOLUTION NO. 04-210

Resolution of findings of advisability and Resolution authorizing improving Florence Street from the north line of Esthner Avenue to the south line of Bounous Street (south of Harry, west of West Street) 472-84020, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Gray moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

### HIDDEN LAKES

#### **SANITARY SEWER TO SERVE AN AREA ALONG HIDDEN LAKES ROAD, WEST OF MAIZE. (DISTRICT V)**

Chris Carrier

Acting City Engineer reviewed the item.

Agenda Report No. 0439

An area along Hidden Lakes Road, west of Maize contains six homes on private septic tank systems. Health Department Officials have indicated that failing private sewer systems may pose a public health risk. An attempt to obtain a valid sanitary sewer petition was not successful. On March 1, 2004, and April 12, 2004, District V Advisory Board sponsored neighborhood hearings on the project. The Board voted 5-1 to recommend approval of the project.

The proposed sanitary sewer project would connect to an existing City sewer line on the south side of Hidden Lakes Road and extend northwesterly to serve the six lots.

The estimated cost of the project is \$83,000 with the total assessed to the improvement district. The proposed method of assessment is the fractional basis. The estimated assessment to individual properties is \$13,833 per lot.

State Statutes authorize the City Council to order in sanitary sewer projects.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Kimberly Schmidt

Ms. Schmidt stated that she is the owner of the property on lot 1, 10900 Hidden Lake Road and that she purchased this property in 1991 and there was an active petition at that time for water and sewer. Stated that when the Northwest Cowskin Project came through another petition was originated and it was defeated again. Stated that she and her husband have always supported a sewer system coming into this area.

Motion--  
--carried

Martz moved that the project be approved; the Resolution be adopted and the Staff Screening & Selection Committee be authorized to select a design engineer. Motion carried 7 to 0.

## RESOLUTION NO. 04-211

Resolution of findings of advisability and Resolution authorizing improving of Lateral 36, Main 1, Cowskin Interceptor Sewer (south of Maple, west of Maize) 468-83667, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Martz moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

### EVERGREEN

#### **SANITARY SEWER TO SERVE AN AREA OF THE EAST SIDE OF EVERGREEN, BETWEEN MAPLE AND 2<sup>ND</sup> STREET. (DISTRICT V)**

Chris Carrier

Acting City Engineer reviewed the item.

Agenda Report No. 04-0440

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 463

The area on the east side of Evergreen, between Maple and 2nd, is developed with single-family homes on private septic tank systems. Health Department Officials have indicated that failing private sewer systems may pose a public health risk. Lots on the west side of Evergreen are currently served by city sewer. District V Advisory Board sponsored March 1, 2004, and April 12, 2004, neighborhood hearings on the project. The Board voted 5-1 to recommend approval of the project.

The proposed sanitary sewer project will connect to existing sewer lines north of Maple and at 2nd Street.

The estimated cost of the project is \$165,000 with the total assessed to the improvement district. The proposed method of assessment is the fractional basis. The estimated assessment to individual properties is \$11,000 per lot.

State Statutes authorize the City Council to order in sanitary sewer projects.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.

Inaudible Stated that he lives at 110 S. Evergreen and it seems to him that all the Health Department has to do is state that there might be a possible public health risk and then they circumvent the petition route of providing a sewer because state law indicates that they can override the petition process indicating there is a health problem. Stated that there are 13 houses on this street and there are six or seven of them that have improved their septic fields in the past 10 years and that he was one of them. Stated that no one from the City's Public Health Department told him that there were long-range plans for putting in a sewer line. Stated that all of these properties are an acre or more and there is severe flooding in the back of the properties, which is a natural drainage. Stated that when it rains very heavily the water rises and causes problems for the septic systems to function properly. Stated that he personally has asked the City a number of times, to at least survey the drainage in the back so that maybe something can be done. He finds it very difficult to accept the fact that he has to come up with \$11,000 at this stage of his life.

Council Member Martz Council Member Martz asked Mr. Carrier to check into the drainage situation along that area and see if there is any assistance that the City can give.

Motion-- Martz moved that the project be approved; the Resolution be adopted and the Staff Screening & --carried Selection Committee be authorized to select a design engineer. Motion carried 7 to 0.

## RESOLUTION NO. 04-212

Resolution of findings of advisability and Resolution authorizing construction of Lateral 33, Main 1, Westlink Sewer (east of Evergreen, north of Maple) 468-83804, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Martz moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

**VALLEY CENTER** **SANITARY SEWER MAIN TO SERVE AN AREA GENERALLY BOUNDED BY THE WICHITA VALLEY CENTER FLOOD CONTROL DITCH, THE KANSAS SOUTHWESTERN RAILROAD TRACKS AND 25<sup>TH</sup> STREET. (DISTRICT V)**

Chris Carrier Acting City Engineer reviewed the item.

Mayor Mayans momentarily absent, Vice-Mayor Brewer at the chair.

The City's Capital Improvement Program includes an ongoing project to extend sanitary sewer service to newly developing areas. One such area is bounded by the Wichita Valley Center Flood Control Ditch; the Kansas Southwestern Railroad tracks and 25th Street. The proposed project is the result of a sewer extension and service study of a large area in Northwest Wichita called Basin 4. The study is a joint effort of the City Engineer's Office, the Water and Sewer Department, and the Metropolitan Area

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 464

Planning Department. The area is primarily comprised of commercial developments. It will also serve a small area of older homes located west of Hoover, north of 21st.

District VI Advisory Board sponsored a March 1, 2004, neighborhood hearing on the proposal. The Board voted 9-0 to recommend approval of the project.

The sewer main will connect to an existing line on the west side of the Sedgwick County Zoo property extend easterly across Zoo Boulevard, and north to a point approximately 1/4 mile north of 21st.

The estimated project cost is \$1,550,000, with \$1,162,500 paid by the Sewer Utility and \$387,500 paid by Special Assessments. The estimated rate of assessment to individual properties is \$00.045 per square foot.

State Statutes provide the City Council the authority to order in sanitary sewer projects.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--carried Martz moved that the project be approved and the Resolution adopted. Motion carried 7 to 0.

## RESOLUTION NO. 04-213

Resolution of findings of advisability and Resolution authorizing construction of Main 20, Southwest Interceptor Sewer (an area generally bounded by the Wichita Valley Center Flood Control Ditch, the Kansas Southwestern Railroad Tracks and 25th Street) 468-83796, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Martz moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## BILLBOARD SIGNS

### **PROPOSED OFF-SITE BILLBOARD SIGN MORATORIUM AND PROPOSED CODE REVIEW PROCESS FOR SIGN AND/OR ZONING CODE AMENDMENTS.**

Kurt Schroeder Superintendent of Central Inspection reviewed the item.

Council Member Fearey momentarily absent.

Agenda Report No. 04-0442

The regulation, permitting and construction of large off-site signs, commonly referred to as "billboard signs", are governed by the Sign Code (Title 24.04). The Sign Code is complemented by the Wichita-Sedgwick County Zoning Code (Title 28.04). The Sign Code defines an off-site sign as "A sign delivering a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon."

Current Sign Code regulations allow permit able off-site billboard signs to have a gross surface area, per panel or sign face, of up to 825 square feet, including allowed extensions. The maximum rectangular dimensions of a sign panel or face, excluding allowed extensions, are fourteen feet in height by forty-eight feet in length. The basic maximum height above grade for off-site billboard signs is thirty feet, although the Code allows signs to be higher when abutting a building or extending over a building roof, or when immediately adjacent to an elevated traffic deck.

Recently, several large off-site billboard signs have been erected at locations that have generated a significant number of citizen and neighborhood association complaints and concerns. These signs were near residential areas and surrounded by commercial and office development that was also controlled by zoning protective overlays such as Community Unit Plans and/or Planned Unit Developments (further restricted for both allowed uses and aesthetics). Permit approvals were based on the amount of commercial zoning located adjacent to the one-mile arterial road sections to which these signs have frontage, and compliance with all Sign and Zoning Code requirements controlling the placement and location of off-site billboard signs.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 465

After erection of the above-referenced signs, several City Council members have inquired about actions that might be taken to stop or better control the placement and erection of such billboards. At its April 20, 2004 meeting, the City Council raised concerns about off-site billboards as an off-agenda item on the "City Council" portion of the regular agenda. After discussion of the issue, the City Council approved the following motion:

"That the Council hold a public hearing on May 4, 2004, and consider the adoption of a six-month moratorium on the issuance of permits for billboard signs in the City of Wichita; that Staff present a proposed resolution to establish a moratorium and conduct a study of the regulation of billboard signs; and that the City Manager instruct that the Office of Central Inspection not receive any new applications for billboard signs before the hearing on the moratorium resolution."

The proposed moratorium resolution sets forth the following:

- § Justification and legal authority for the moratorium
- § A six-month moratorium on the processing of sign permit applications or granting of sign permits for all new off-site signs in the City
- § A list of exemptions for certain off-site signs (new subdivision and project title signs, and certain permits for modification, maintenance or rehabilitation of existing off-site signs)
- § Authorization to continue processing of applications for zoning variances or other zoning applications
- § An appeal process to the City Council (during the moratorium period) for any sign permit application that has been administratively denied or held in abeyance, either before or during the moratorium period

## Status of Pending Off-site Billboards Applications and Permits

Currently, there are ten off-site billboard signs that are not yet constructed (as of 4/26/04), and for which sign permit applications have been submitted. Sign permits have been legally issued for six (6) of these ten billboard signs. The Office of Central Inspection is holding four (4) other legally permitted sign permits in abeyance, and has not issued those sign permits.

Additionally, three non-permitted billboards exist and are in use, although required zoning approvals and sign permits have yet to be obtained. All three of these signs are in the official zoning variance or rezoning process.

## Key Policy Issues

There are several key policy issues that may be raised with respect to the proposed Moratorium Resolution presented by staff. These key issues include the following:

- § The Moratorium, as proposed, allows the six (6) legally permitted but yet erected off-site billboard signs to be constructed. Should the Council desire to halt construction of these legally permitted signs, there may be additional issues that should be reviewed by the Law Department.
- § The Moratorium, as proposed, directs that any permits that have been submitted but not yet issued should not be processed further, and should be held in abeyance during the moratorium period.
- § The Moratorium, as proposed, exempts existing signs that are in use, which may be in the process of obtaining necessary rezoning or zoning variance approvals.

## Recommended Code Review Process

If the proposed moratorium is adopted, it is also recommended that the City Council provide staff with guidance on the process for review and amendment of the Sign and/or Zoning Code during the moratorium period. Staff recommends the following process/procedure:

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 466

1. Immediately assemble a staff review committee to assess current off-site billboard numbers and locations, and potentials for additional billboard signs under current regulations. As additional input is received from the City Council, DABs, MAPC and other interested parties, the staff committee will also develop several sign and/or unified zoning code amendment alternatives, including analysis of the potential impacts of each. The staff committee would include representatives from the City Manager's Office/Neighborhood Assistance, Law Department, Planning Department and Office of Central Inspection.
2. May 25, 2004 Council Workshop - Review Council goals for new billboard regulation in order to determine the general scope of proposed sign and/or zoning code amendments.
3. Incorporate City Council workshop feedback/direction on desired scope of changes, and present issues and code amendment alternatives/impacts to DABs in June/July for DAB input.
4. Present overview and proposed code changes to MAPC in July for MAPC input/comment.
5. July 27, 2004 Council Workshop- Present update on proposed sign and/or zoning code changes to Council for additional input/guidance.
6. Finalize recommended amendments to sign and/or zoning code during August 2004.
7. Conduct formal MAPC hearing on proposed ordinance amendments in mid-September 2004.
8. Present amended ordinances to City Council for review/adoption in early to mid-October 2004.

There is no financial impact to the City. However, several off-site billboard signs were in the process of permit application review when the April 20, 2004 Council action was taken, Several sign companies indicate they already had significant investment in these proposed billboards.

The City Council has the authority under its police powers to establish a reasonable moratorium on the grant of certain permits.

Council Member Lambke Council Member Lambke stated that he is not comfortable with this timetable. This would be putting a moratorium on the erection of signs all during the building season. Does not see why it should take this long to do this and it is not good to practically shut down a legitimate business in the City.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.

Greg Ferris Mr. Ferris stated that he is representing Don Jurnagen and he does not have a problem with the moratorium but thinks that six months is too extreme. Stated that he thinks that there should not be any reason why this cannot be taken care of by July or August. Stated that he has a big problem with the way the moratorium is written.

Doug Shoen Mr. Shoen stated that he is the operations manager for Clear Channel Outdoor and thinks the moratorium would be a good thing. Stated that it would be good for the Council to take time to sit back and review this, which would be good for the City.

John Ley Mr. Ley stated that he is president of George Ley Signs and his company is in both the on-site sign business and the off-site billboard business. Stated that most of their billboard holdings in the City of Wichita are a result of an acquisition they did about eight years ago. He has been observing how the residential property and businesses need to peacefully co-exist. If the six-month moratorium is what it takes to do this, he would not be in opposition of it but thinks that it is an unnecessary step.

Ron Blume Mr. Blume stated that he is the general manager of Clear Channel Outdoor and agrees with Mr. Ferris and Mr. Ley. Stated that they are an industry that has a lot of public opinion and it is up to the City Council to make sure that they co-exist. Stated that if we move forward with the moratorium, that the Council will allow the people here today that are associated with the industry to be a part of the solution and is looking forward to working with the Council.



# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 467

- Dick Waylon Mr. Waylon stated that he is a 35 year resident of the City of Wichita and currently is representing Lindmark Outdoor Advertising, which is out of Oklahoma City. Stated that if the Council takes six months or a year for a moratorium or to establish new rules and regulations, there will always be conflicts in a situation like this. Stated to go ahead and take the six months or less to review the rules and regulations but let the signs that are already in existence and also the applications that have been submitted go through.
- Joe Ryder Mr. Ryder stated that he resides on the west side at 9407 Britton and has watched the west area grow over the last 12 years and they greatly appreciate the zoning requirements, which restrict or set-up the guide lines for the businesses along 21<sup>st</sup> Street. Stated that the signs along 21<sup>st</sup> Street are esthetically done and are appropriately sized and now to see a big billboard of this nature seems inappropriate and out of proportion.
- Mayor Mayans Mayor Mayans stated that if this process can be done in 90 days it should be done then instead of 120 days.
- Council Member Fearey Council Member Fearey stated that she agrees with most of the speakers regarding the 10 signs that have the permit process in the works, that they should be allowed to be proceed.
- Gary Rebenstorf Director of Law explained that the current resolution has language in it that prohibits the grant of all permits already received but not yet granted, so this language would need to be changed.
- Council Member Brewer Council Member Brewer stated that he agrees with reducing the time frame for the moratorium to 90 days instead of 120 days but that it is important to get the input from each DAB.
- Council Member Lambke Council Member Lambke stated that it is possible to have a special meeting of the DAB's, which could be implemented within a few days.
- Council Member Martz Council Member Martz stated that it is far easier to reduce the time frame down rather than to extend it. Stated that he is in favor of the six-month moratorium. Stated that he thinks that a major issue that needs to be looked at is in granting variances on the existing codes that the City has. This is part of the concern that the community has, that the signs are getting larger and larger because of the variances that are being granted.
- Mayor Mayans Mayor Mayans suggested having a three-month moratorium with a three-month renewal if necessary.
- Council Member Fearey Council Member Fearey stated that she is also in favor of a six-month moratorium. Stated that she respects the businesses but respects the concerns of the citizens more and does not see any reason to hurry this process along. Thinks that the DABs and MAPC need plenty of time to look at this issue and to go ahead and allow the permits that are in process.
- Council Member Gray Council Member Gray stated that he feels that the Council needs to do what they can to move this along as soon as possible. Supply and demand is a factor and there is an economic issue involved with this. Stated that he would support a three-month moratorium and an option to extend that by some specific period of time.
- Council Member Schlapp Council Member Schlapp stated that she feels this is a very complex issue and would like to make a recommendation of putting a six-month moratorium with the option that if it can be accomplished in three-months to go ahead and do that.
- Council Member Lambke Council Member Lambke stated that he feels it is out of line to ask for a six-month moratorium and that the Council can settle the problem and that this does not need to go to the DABs.
- Motion-- Mayans moved to adopt a four-month moratorium with a possible renewal of two more months for all off-site billboard signs, to adopt the resolution and approve the recommended process for sign and/or zoning code review/amendment during the moratorium period, which is to include the approval of the permits that have already been submitted. Motion 6 to 1 (Lambke-no).
- carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 468

## RESOLUTION NO. 04-214

A Resolution of the governing body of the City of Wichita declaring a moratorium on the processing of certain off-site sign permits, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Mayans. Nay: Lambke.

### CITY COUNCIL AGENDA

#### APPTS.

#### BOARD APPOINTMENTS.

There were no appointments to be made.

#### TRAVEL EXPENSES

#### APPROVAL OF TRAVEL EXPENSES FOR MAYOR TO ATTEND U.S. CONFERENCE OF MAYORS ANNUAL MEETING IN BOSTON, MA. JUNE 25-19, 2004.

Motion--carried

Brewer moved that the expenditures be approved. Motion carried 7 to 0.

### CONSENT AGENDA

Motion-- carried

Mayans moved that the Consent Agenda be approved as consensus Items. Motion carried 7 to 0.

#### BOARD OF BIDS

#### REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED MAY 3, 2004.

Bids were open April 23 and April 30, 2003, pursuant to advertisements published on:

Water distribution system to serve Ridge Port North 5th Addition - south of 37th Street North, east of Ridge. (448-89741/735178/470848) Does not affect existing traffic. (District V)

Mies Construction - \$73,292.00

Glenwood Circle from the south line of Lot 6, Block 2, and including the cul-de-sac serving Lots 7 through 16, Block 2 to serve Reed's Cove Addition - south of 21st Street North, east of 127th Street East. (472-83968/765865/490976) Does not affect existing traffic. (District II)

Cornejo & Sons Construction - \$120,724.25 (Base bid)  
\$ 10,725.00 (Add Alternate #1)  
\$131,449.25 (Total bid)

Storm Water Drain #218 to serve Tyler's Landing Second Addition - south of 37th Street North, east of Tyler. (468-83727/751355/485246) Does not affect existing traffic. (District V)

Bob Bergkamp Construction - \$373,335.50

2004 contract maintenance asphalt street repair and overlay - north of 47th Street South, east of Meridian. (472-83926/132716/706879/NA/204345) Traffic to be maintained during construction using flagpersons and barricades. (Districts I, IV & VI)

Kansas Paving Company - \$250,000.00 (Award)

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 469

Water main replacement for McKnight Place - north of Kellogg, west of Minnesota. (448-89812/634028/773199) Traffic to be maintained during construction using flagpersons and barricades. (District I)

Wildcat Construction - \$588,800.00

Cranbrook from a point 158 feet south of the south right-of-way line of 19th Street North to and including the two Cranbrook Circles; Rusty Gate from the east line of Lot 26, Block 1, to the east line of Lot 36, Block 1; Frederic Circle from the south line of Lot 24, Block 6, to and including the cul-de-sac; Sidewalk along the west and south line of Cranbrook from the north line of Lot 36, Block 1, to the south line of Lot 14, Block 1, and from the southeast corner of Lot 14, Block 1 thru Reserve "F" of Remington 3rd Addition to the south line of Lot 28, Block 7 to serve Remington Place 3rd Addition - south of 21st Street North, east of Webb. (472-83943 /765863 /490974) Does not affect existing traffic. (District II)

Ritchie Paving - \$405,967.26

Silver Hollow/Brush Creek from the east line of Lot 106, Block 4, to the south line of Lot 134, Block 4; Silver Hollow Court from the south line of Silver Hollow to and including the cul-de-sac serving Lots 107 through 118, Block 4; Brush Creek Circle from the south line of Brush Creek to and including the cul-de-sac serving Lots 119 through 130, Block 4 to serve Fox Ridge Addition - north of 29th Street North, west of Tyler. (472-83788/765861/490972) Does not affect existing traffic. (District V)

Kansas Paving Company - \$168,800.25 (Base bid)  
\$ 25,400.00 (Add alternate #1)  
\$ 2,000.00 (Add alternate #2)  
\$196,200.25 (Total bid)

Red Fox Circle from the south line of Silver Hollow to and including the cul-de-sac serving Lots 83 through 96, Block 4 to serve Fox Ridge Addition - north of 29th Street North, west of Tyler. (472-83789/765862/490973) Does not affect existing traffic. (District V)

Ritchie Paving - \$51,475.70

Storm Water Drain #230 - Reed's Cove Addition – 468-83800 /751366)

Pearson Excavating - \$51,109.00 (Negotiated to Engineer's estimate)

Lateral 362, Four Mile Creek Sewer to serve Fawn Grove Addition - south of Turnpike, west of Greenwich. (468-83797/744052/480740) Does not affect existing traffic. (District II)

Nowak Construction - \$85,776.05

Water distribution system to serve Fawn Grove Addition - south of Turnpike, west of Greenwich. (448-89938/735187/470857) Does not affect existing traffic.(District II)

Nowak Construction - \$36,358.97

Motion--

Mayans moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Concrete Maintenance and Repair – Boys/Girls Club.

Barkley Construction - \$9,100.00 (Total net bid)

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 470

HEALTH DEPARTMENT/ENVIRONMENTAL HEALTH DIVISION: Mowing & Landscaping Maintenance.

Arjona Mowers - \$10,800.00\* (Group 1/total net bid)

PARK DEPARTMENT/MAINTENANCE DIVISION: Pool Chemicals.

Reject – no bids received (Group 1/line 1)  
Brenntag Southwest Inc.\* - \$ 862.50 (Group 1/line 1/total net bid)  
Harcros Chemicals Inc.\* - \$5,100.00 (Group 2 total net bid)  
Brenntag Southwest Inc.\* - \$1,267.50 (Group 3 total net bid)

FINANCE DEPARTMENT-IT/IS DIVISION: HP Servers.

Global Government Education Solutions - \$39,139.48 (Group 1 total net bid)

WATER & SEWER DEPARTMENT/DISTRIBUTION DIVISION: Install Water Utility Sewer Lines.

Duling Construction Co. Inc.\* - \$216,000.00 (Group 1 total net bid)

PARKS & RECREATION DEPARTMENT/PARK MAINTENANCE DIVISION: Park Benches and Picnic Tables.

Fry & Associates Inc. - \$36,757.50 (Group 1 total net bid)

AIRPORT DEPARTMENT/ENGINEERING DIVISION: 2004 Wheelchair Ramp Replacement.

Barkley Construction - \$21,245.00 (Group 1 total net bid)

PARK DEPARTMENT/MAINTENANCE DIVISION: Pool Chemicals.

United Industries Inc. - \$18,590.00 \*(Group 1 total net bid)

TRANSIT DEPARTMENT: Janitorial Service – Transit and Bus Cleaning.

Kleenco\* - \$22,870.50 (Base bid)  
No charge (Option 2)  
\*Award redirected

Motion--  
--carried

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

## LICENSES

### APPLICATION FOR LICENSES FOR ADULT ENTERTAINMENT ESTABLISHMENTS/SERVICES:

#### New Escort Services

Vicki Maness	Models on Call	1123 East Douglas
Sandra J. Lacy	Prime Time Entertainment	333 East English

Motion--  
--carried

Mayans moved that the licenses subject to Staff review and approval be approved. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 471

CMB

## APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2004</u>	<u>(Consumption on Premises)</u>	
Troy C. Hendricks	Auburn Hills Golf Course*	443 South 135th Street West	
Paul A. Eck	Family Home Association, Inc.*	3202 West 13th Street	
Miguel Reyes	Rostizeria Los Reyes*	512 West 21st Street	
<u>Renewal</u>	1	<u>2004</u>	<u>(Consumption off Premises)</u>
Jayestha Patel	Shiva, LLC	223 East 21st Street North	
Jayestha Patel	Shiva, LLC	1826 West 13th Street North	
Kim T. Huynh	Kim Son Asian Food Market	960 East Pawnee	
<u>New Operator</u>	<u>2004</u>	<u>(Consumption off Premises)</u>	
James D. Brown	Conoco Convenience Mart #600	433 South Greenwich	
<u>New Establishment</u>	<u>2004</u>	<u>(Consumption off Premises)</u>	
Mike Bidwell	Dillons #81	13415 W. Maple	
Vincent Awulonu	VinRose African Market, Inc.	1315 East Lincoln	

\*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion--  
--carried

Mayans moved that the licenses subject to Staff review and approval be approved. Motion carried 7 to 0.

## **PRELIMINARY ESTS. PRELIMINARY ESTIMATES:**

- a) Driftwood from the east line of Meridian Avenue to the east line of Blue Harbor; Driftwood Court adjacent to Lots 1 to 21, Block 1, and Captiva from the south line of Driftwood to the south line of Harbor Isle Third Addition; Sidewalk along one side of Driftwood to serve Harbor Isle Third Addition - south of 53rd Street North, east of Meridian. (472-83237/765842/490953) Does not affect existing traffic. (District VI) - \$820,000
- b) 2004 sanitary sewer reconstruction, Phase 4 - various locations north of Harry, between West Street and 143rd Street East. (468-83778/620402/664522) Traffic to be maintained during construction using flagpersons and barricades. (Districts I, II, III, IV, VI) - \$360,000
- c) Traffic signalization at Central Park & Maize - Central Park & Maize, north of 21st & Maize. (472-83957/765858/490969) Traffic to be maintained during construction using flagpersons and barricades. (District V) - \$90,000
- d) Traffic signalization at 21st Street North & Regency Lakes - 21st & Regency Lakes, west of 21st & Greenwich. (472-83954/765859/490970) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$140,000
- e) Lateral 358 Four Mile Creek Sewer to serve Crestview Country Club Estates Overbrook 5th Addition -north of Central, east of 143rd Street East. (468-83709/744043/480731) Does not affect existing traffic. (District II) - \$85,000
- f) Water distribution system to serve Crestview Country Club Estates Overbrook 5th Addition - north of Central, east of 143rd Street East. (448-89882/735177/470847) Does not affect existing traffic. (District II) - \$31,000

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 472

g) Aley Mini City Hall Lighting (CDBG) (Seneca and Esthner) (472-83988/602529/800301/010180) Does not affect existing traffic. (District IV) - \$13,951

h) Bracken Circle serving Lots 1 through 14, Block 5, from the south line of Zimmerly to and including the cul-de-sac; Zimmerly Court serving Lots 15 through 33, Block 5, from the south line of Zimmerly to and including the cul-de-sac to serve Woodland Lakes Estates Third Addition -north of Harry, west of 127th Street East. (472-83716/765848/490959) Does not affect existing traffic. (District II) - \$261,960

i) Kellogg (US 54) and Rock Road, Part 5: Grading, Concrete Pavement, Utilities, Temporary Seeding and Lighting between Rock Road and KTA north of existing Kellogg Avenue (472-83970/702335/401351) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$1,400,000

j) Storm Water Drain #225 to serve Regency Lakes Commercial Second Addition - north of 21st Street North, west of Greenwich. (468-83775/751362/485253) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$427,000

Motion--carried Mayans moved that the Preliminary Estimates be received and filed. Motion carried 7 to 0.

## **DEEDS/EASEMENTS DEEDS AND EASEMENTS:**

a) Dedication dated April 9, 2004 from Newmarket V, LLC for a tract of land located in the Northeast Quarter of Section 6, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas (29th, Maize to 119th, OCA #706858). No cost to city.

b) Dedication dated April 9, 2004 from Socora Village Company for a tract of land located in the Northeast Quarter of Section 6, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas (29th, Maize to 119th, OCA #706858). No cost to city.

c) Dedication dated April 9, 2004 from Newmarket V, LLC for a tract of land located in the Northeast Quarter of Section 6, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas (29th, Maize to 119th, OCA #706858). No cost to city.

Motion--carried Mayans moved that the documents be accepted. Motion carried 7 to 0.

## **PETITION PETITIONS FOR PUBLIC IMPROVEMENTS: PAVE 27TH STREET SOUTH FROM EXCHANGE PLACE TO MCLEAN. (DISTRICT IV)**

Agenda Report No. 04-0443

On October 21, 2003, the City Council approved a Petition to pave 27th Street South from Exchange Place to McLean. Additional funding is needed to pay the cost of moving private utilities. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district. In addition, a required street right-of-way dedication has been submitted for City Council acceptance.

The project will improve access to the Kingston Cove Apartment complex and the adjacent neighborhood.

The existing Petition totals \$130,000. The new Petition totals \$155,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 473

Motion--  
--carried

Mayans moved that the Petition be approved; the Resolution adopted and the dedication of street right-of-way accepted. Motion carried 7 to 0.

## RESOLUTION NO. 04-215

A Resolution amending Resolution No. 03-539 pertaining to improving 27th Street South, from the west line of McLean Boulevard to the east line of Exchange Place 468-83860, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## STREET CLOSURE

### CONSIDERATION OF STREET CLOSURES/USES.

Agenda Report No. 04-0477

The Kansas and Oklahoma Railroad (K&O) is scheduling the elevation adjustment of three crossings in the Bayley Street corridor. The railroad is requesting one-day complete closures at the crossings of Emporia, Topeka and Broadway. The closures would begin at approximately 8:30 a.m. and they will try to complete the work by 4:30 p.m. During the closures the railroad will remove the existing concrete crossing panels, deposit ballast material, adjust the track elevation, tamp the crossing area and reinstall and weld the concrete crossing panels. Work is tentatively scheduled to begin Monday, May 10, 2004 and be completed Wednesday, May 12, 2004.

During the closures, traffic will be routed using adjacent streets as applicable.

Motion--carried

Mayans moved that the street closure be approved. Motion carried 7 to 0.

## TRANS. SERVICES

### SUMMER OF DISCOVERY TRANSPORTATION SERVICES.

Agenda Report No. 04-0444

Summer of Discovery (a ten-week Park and Recreation Department program for children ages six to twelve) offers a number of recreational venues and field trip opportunities inside and outside the city limits of Wichita. Licensed and insured transportation services are necessary to transport children enrolled in the program to these venues and field trips.

A request for proposal (RFP) to provide transportation services for the Summer of Discovery program was issued earlier this year. A proposal presented by Durham School Services met the RFP criteria in terms of qualifications, experience, references, and cost. Durham School Services provided transportation services for the Summer of Discovery program during 2001-2003.

Estimated annual cost of the contract is \$29,250. Funds are budgeted in the 2004 Adopted Budget.

The Law Department will review and approve the contract as to form. The contract will be for one year with annual renewal options for an additional two years.

Motion--  
--carried

Mayans moved that the selection of Durham School Services be approved and the necessary signatures authorized. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 474

## REGENCY LAKES

### **AGREEMENT TO RESPREAD ASSESSMENTS: REGENCY LAKES COMMERCIAL SECOND ADDITION, NORTH OF 21ST STREET NORTH, WEST OF GREENWICH ROAD. (DISTRICT II)**

Agenda Report 04-0445

The landowner, Consolidated Greenwich 21, L.L.C., platted Regency Lakes Commercial 2nd Addition and has submitted an Agreement to respread special assessments within the Addition.

The land was originally included in several improvement districts for a number of public improvement projects. The purpose of the Agreement is to respread special assessments on a fractional basis for each lot. Without the Agreement, the assessments will be spread on a square foot basis.

Motion--  
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## CONSULTANT SERV.

### **CONTRACT FOR CONSULTANT SERVICES FOR ACQUISITION AND RELOCATION: HILLSIDE FROM KELLOGG TO CENTRAL. (DISTRICT II)**

Agenda Report No. 04-0446

The widening and improvement of Hillside from Kellogg to Central requires the acquisition of 26 tracts. Staff has previously acquired 18 tracts for the property and continues to negotiate on three more. There are five tracts remaining that require acquisition and relocation. Relocation is very labor intensive. With current staffing levels, relocation assistance is required.

Proposals to provide acquisition and relocation services were solicited from qualified firms. Three firms submitted proposals. Land Acquisitions, Inc. was selected from among the proposals by the review committee based on qualifications and the lowest cost. Based on their proposal, it is estimated that \$9,500 will be sufficient to complete the assignment.

Funding is available within the project budget to fund the proposed increase. Project costs will be funded with general obligation bonds.

Motion--  
--carried

Mayans moved that the contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

## ROLLER SKATING

### **SUMMER OF DISCOVERY ROLLER SKATING FIELD TRIP.**

Agenda Report No. 04-0447

Summer of Discovery (a ten-week Park and Recreation Department program for children ages six to twelve) offers a number of recreational venues and field trip opportunities inside and outside the city limits of Wichita. Field trips that are entertaining, educational and that promote physical activity are a necessary aspect of making the Summer of Discovery camp program interesting and fun for the participants.

A request for proposal (RFP) to provide roller skating services for the Summer of Discovery program was issued earlier this year. A proposal presented by Skate East (Kelly Little, owner) met the RFP criteria in terms of qualifications, experience, references, and cost.

Estimated annual cost of the contract is \$1,110. Funds are budgeted in the 2004 Adopted budget.

The Law Department will review and approve the contract as to form. The contract will be for one year with annual renewal options for an additional two years.



# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 475

Motion--  
--carried

Mayans moved that the selection of Skate East be approved and the necessary signatures authorized.  
Motion carried 7 to 0.

## COSMIC BOWLING

### SUMMER OF DISCOVERY COSMIC BOWLING FIELD TRIP.

Agenda Report No. 04-0448

Summer of Discovery (a ten-week Park and Recreation Department program for children ages six to twelve) offers a number of recreational venues and field trip opportunities inside and outside the city limits of Wichita. Field trips that are entertaining, educational and promote physical activity are a necessary aspect of making the Summer of Discovery camp program fun and interesting for the participants.

A request for proposal (RFP) to provide Cosmic Bowling services for the Summer of Discovery program was issued earlier this year. A proposal presented by Seneca Bowl (Derek Frazier, Manager) met the RFP criteria in terms of qualifications, experience, references, and cost.

Estimated annual cost of the contract is \$2,500. Funds are budgeted in the 2004 Adopted budget.

The Law Department will review and approve the contract as to form. The contract will be for one year with annual renewal options for an additional two years.

Motion--  
--carried

Mayans moved that the selection of Seneca Bowl be approved and the necessary signatures authorized.  
Motion carried 7 to 0.

## HARBOR ISLE

### CONSTRUCTION ENGINEERING AND STAKING IN HARBOR ISLE THIRD ADDITION, EAST OF MERIDIAN, SOUTH OF 53RD STREET NORTH - SUPPLEMENTAL. (DISTRICT V)

Agenda Report No. 04-0449

The City Council approved the water distribution system, sanitary sewer and paving improvements in Harbor Isle 3rd Addition on October 21, 2003. On March 3, 2004, the City approved an Agreement with Poe & Associates to design the improvements. The Design Agreement with Poe requires Poe to provide construction-engineering services if requested by the City.

The proposed Supplemental Agreement between the City and Poe provides for construction engineering and staking for the improvements. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering for this project.

Payment to Baughman will be on a lump sum basis of \$80,900, and will be paid by special assessments.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized.  
Motion carried 7 to 0.

## UTILITIES

### RELOCATION OF UTILITIES ALONG 27TH STREET SOUTH, WEST OF MCLEAN. (DISTRICT IV)

Agenda Report No. 04-0450

On October 21, 2003, the City Council approved a Petition to open 27th Street South from Exchange Place to McLean Boulevard. Utilities will need to be relocated as a part of this project.

Estimated costs to relocate Westar lines are \$22,000.00.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 476

Funds are available in the project to provide for utility relocation costs. The funding source is special assessments.

Motion-- Mayans moved that the Contract be approved and the necessary signatures authorized. Motion  
--carried carried 7 to 0.

## **RAILROAD PERMITS RAILROAD PERMITS FOR OLD LAWRENCE ROAD WATER MAIN EXTENSION PROJECT LOCATED NORTH OF 37TH STREET NORTH, AND EAST OF BROADWAY. (DISTRICT VI)**

Agenda Report No. 04-0451

: A water line project to serve the area along the west side of Broadway between 37th Street North and the K-96 Bypass is under contract for construction. The project will require the installation of a water main under existing railroad tracks operated by the Burlington Northern/Santa Fe (BNSF) Railroad Company.

Permits from the BNSF Railroad are required due to the alignment of the water main installation. The permits will go into effect upon countersigning by the railroad. The executed documents will be returned to the City of Wichita.

Motion-- Mayans moved that the railroad permit agreements be approved and the necessary signatures  
--carried authorized. Motion carried 7 to 0.

## **OLD TOWN BBQ AGREEMENT FOR ACCESS EASEMENT-OLD TOWN BBQ PROPERTY. (DISTRICT VI)**

Agenda Report No. 04-0452

The owner of the Old Town BBQ building that fronts on Mosley Avenue in Old Town has agreed to sell a portion of that building on the east side of the lot to a developer who intends to locate a Logan Farms store in the building. By dividing the ownership of the building on this lot, the portion on the east side does not have direct access to Mosley Avenue or any other public street. This has created a title problem that is holding up the transaction. The City owns a parking lot that is immediately east of the portion of the building that is being sold and which will be developed as a Logan Farms store. The owner of the Old Town BBQ building has asked the City to permit access across its parking lot to the portion of the building that is being sold off. An agreement permitting this access will resolve the title problem.

In order for the developer to obtain title insurance and financing for the redevelopment of the east end of this building for a Logan Farms store, this title problem must be addressed. The proposed Agreement permits a general right of access from Washington Street over and across the City's parking lot property to the Logan Farms store. In the event that the City wishes to construct improvements to the parking lot property, it would have the right under the Agreement to define this right of access down to no less than a 20-foot strip. It is unlikely that the future use of the Logan Farms building (which now extends right up to the property line of the City's parking lot) will require actual access in the foreseeable future. Similarly, it is unlikely that the City will sell or improve the parking lot property in the foreseeable future. Under those circumstances this agreement for access has no practical impact on the City's property.

Motion-- Mayans moved that the Agreement be approved and the necessary signatures authorized.  
--carried Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 477

## **SOUTHERN RIDGE     SOUTHERN RIDGE ADDITION, SOUTH OF PAWNEE, WEST OF MAIZE. (DISTRICT IV)**

Agenda Report No. 04-0453

The City Council approved the water distribution system, sanitary sewer and paving improvements in Southern Ridge Addition on March 2, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond-financed improvements consisting of water distribution system, sanitary sewer and paving in Southern Ridge Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$16,600, and will be paid by special assessments.

Motion--  
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## **2004 CIP**

### **2004 ARTERIAL STREET, BIKE PATH, PARK AND WATERLINE REPLACEMENT.**

Agenda Report No. 04-0454

The 2004 Capital Improvement Program includes funding for arterial-street, bridge, bike path, Park and waterline design projects. On April 1 and 2, 2004, the Staff Screening and Selection Committee interviewed 14 design companies for the following 34 projects:

The projects to be designed, the design companies and the design fees are:

Intersection of 13th Street at Mosley (District VI)  
AM \$32,000

13th Street, between 135th Street West and 119th Street West (District V)  
Schwab-Eaton \$117,800

17th Street, between Broadway and I-135 Freeway (Districts I & VI)  
MKEC \$198,000

Intersection of 17th Street at Hillside (District I)  
MKEC \$58,000

21st Street, between Oliver and Woodlawn (District I)  
MKEC \$77,900

29th Street North, between 119th Street West and Maize (District V)  
Baughman \$82,500

Central Avenue, between 135th Street West and 119th Street West (District V)  
MKEC \$146,000

Dewey, between Main and Broadway (District I)  
Tran-Systems \$23,400

Greenwich, between 13th and K-96 Freeway (District II)  
PEC \$292,800  
Intersection of Harry at Longford (District II)  
CF&S \$13,656

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 478

Harry, between K-42 Highway and Meridian (District IV)  
KE Miller \$37,925

Harry, between the Kansas Turnpike and Rock (District II)  
CF&S \$33,312

MacArthur, between Meridian and Seneca (District IV)  
Baughman \$181,100

Oliver, between Harry and Kellogg (District III)  
MKEC \$118,600

Intersection of Pawnee at McLean (Districts III & IV)  
R&B \$29,800

Pawnee, between 119th Street West and Maize (District V)  
Poe \$181,600

Pawnee, between Meridian and Seneca (District IV)  
Tran-Systems \$85,700

Pawnee, between Palisade and Broadway (District III)  
Young \$40,300

Pawnee, between Washington and Hydraulic (District III)  
MKEC \$109,900

Seneca, between I-235 Freeway and 31st Street South (District IV)  
Poe \$181,895

Intersection of 29th Street North and Oliver (District I)  
Butler \$4,970

Intersection of 37th Street North and Rock (District II)  
Butler \$4,970

Intersection of 21st Street at 127th Street East (District II)  
PEC \$4,800

West Street between Maple and Central (Districts IV & VI)  
Baughman \$209,300

Intersection of Zoo Boulevard, Westdale and I-235 Freeway (Districts V & VI)  
PEC \$8,000

21st Street Bridge at the Arkansas River (District VI)  
MKEC \$36,700

Hillside Bridge at Range Road (District III)  
CF&S \$27,000

Bike Path along former MoPac/UP Railroad Tracks from the Central/Waco Intersection and 15th/Broadway Intersection (District VI)  
R&B \$51,000

Bike Path along Gypsum Creek from I-135 to Turnpike (District III)  
R&B \$61,300

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 479

Grove Park Trailhead (District I)  
Law Kingdon \$18,000

Area Lighting at 9 City Pools (Districts I, IV, V & VI)  
KE Miller \$22,000

Waterline along 135th Street West, 21st to 29th (District II)  
Tran-Systems \$9,400

Waterline along 135th Street West, 29th to 37th (District II)  
Tran-Systems \$9,400

Waterline along West Street, from 47th to one-third mile north of 47th (District IV)  
AM \$7,500

The paving, bridge, Park and bike path project budgets total \$2,747,000. The funding source for the street, bridge, Park and bike path projects is General Obligation Bonds. The waterline project budgets total \$34,000 and are funded by the Water Utility.

Motion--  
--carried

Mayans moved that the design projects and agreements be approved; the Ordinances be placed on first reading; the Resolutions be adopted; and the necessary signatures be authorized. Motion carried 7 to 0.

## RESOLUTION NO. 04-224

A Resolution finding it necessary to make certain improvement to construct a bike path trailhead in Grove Park, 472-84003, and authorizing the issuance of Bonds by the City of Wichita at Large, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-225

A Resolution finding it necessary to make certain improvement to construct a bike path along the former MOPAC/UP Railroad Tracks from the intersection of Central at Waco to the Intersection of 15th Street North at Broadway, 472-84008, and authorizing the issuance of Bonds by the City of Wichita at Large, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-226

A Resolution finding it necessary to make certain improvement to construct a bike path along Gypsum Creek from I-135 Freeway to the Kansas Turnpike, 472-84009, and authorizing the issuance of Bonds by the City of Wichita at Large, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## ORDINANCE

An Ordinance declaring 29th Street North, between 119th Street West and Maize (472-83982) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring the intersection of 29th Street North and Oliver (472-83983) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 480

## ORDINANCE

An Ordinance declaring the intersection of 37th Street North and Rock (472-83984) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring the intersection of 21st Street at 127th Street East (472-83895) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring the intersection of Zoo Boulevard, Westdale and I-235 Freeway (472-83986) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring the intersection of 13th Street at Mosley (472-83995) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring MacArthur, between Meridian and Seneca (472-83996) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring West Street, between Maple and Central (472-83997) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring the intersection of Harry at Longford (472-83998) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring Harry, between the Kansas Turnpike and Rock (472-83999) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 481

## ORDINANCE

An Ordinance declaring the Hillside Bridge at Range Road (472-84000) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring Harry, between K-42 Highway and Meridian (472-84001) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring Greenwich, between 13th and K-96 Freeway (472-84004) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring Pawnee, between 119th Street West and Maize (472-84005) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring Seneca, between I-235 and 31st Street South (472-84006) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring the Intersection of Pawnee at McLean (472-84007) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring 13th Street, between 135th Street West and 119th Street West (472-84010) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring Dewey, between Main and Broadway (472-84011) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 482

## ORDINANCE

An Ordinance declaring Pawnee, between Meridian and Seneca (472-84012) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring Pawnee, between Palisade and Broadway (472-84013) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring 17th Street, between Broadway and I-135 (472-84014) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring the Intersection of 17th Street at Hillside (472-84015) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring 21st Street, between Oliver and Woodlawn (472-84016) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring Central Avenue, between 13th Street West and 119th Street West (472-84017) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring Oliver, between Harry and Kellogg (472-84018) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

## ORDINANCE

An Ordinance declaring 21st Street Bridge at the Arkansas River (472-84019) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.



# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 483

## **CHANGE ORDERS #8 CHANGE ORDERS: NO. 8: IMPROVEMENTS TO CENTRAL RIVERSIDE PARK.** **(DISTRICT VI)**

Agenda Report No. 04-0455

On February 4, 2003, the City Council approved increasing the budget for improvements to Riverside Park from \$5,000,000 to \$5,450,000 and awarding the contract (excluding street work) to Robl Construction, Inc. Construction is now nearing completion.

An element of the architect's design was to recreate the historical pond and wetlands in Oak Park as part of the Riverside Park project. During excavation in the fall of 2003, the ground water level was found to be higher than anticipated, causing a need to revise the design. On October 21, 2003, the City Council approved Change Order #6, which lowered the elevation of the wetlands to expose the ground water and which raised the elevation of the pond by the stone arch to a higher level. These changes resolved the ground water issue, but additional issues have arisen, some of which are partially related to the changes included in Change Order #6.

The pond below the stone arch, the wetlands, and the stream connecting the two are all man-made features located in a part of the park that is quite rugged with heavily wooded areas. To facilitate access by the public, including handicapped individuals, a path was designed to connect the features that meet ADA requirements for maximum slopes, rest areas etc. This path begins at the disk golf parking area, passes over a wooded hillside and down to where it crosses the stream on a footbridge. The path then parallels the stream to where it turns away, goes over a wooded hill, and arrives at a viewing area on the edge of the pond below the arch.

Change Order #6 revised the bridge to a smaller design and moved it south from the wetlands to a location over the stream. This made it necessary to relocate the path between the parking area and the new bridge location. Constructing the path across the hillside to meet ADA requirements while also preserving trees required unanticipated excavation. The exposed dirt banks can be dressed and planted in some locations, but other areas require rock retaining walls to prevent erosion, protect tree roots and maintaining the appearance of the park.

Construct rock retaining walls and dress slopes along path	\$4,000.00
--	------------

The footbridge, located in an area with steep slopes, had to be constructed at a higher elevation than planned to connect with the path while meeting ADA requirements. This caused the need for rock retaining walls and dirt fill around the bridge to control the soil and prevent erosion.

Construct rock retaining walls and place fill dirt at both ends of footbridge	\$5,040.00
---	------------

The stream carrying water from the pond to the wetlands was constructed as originally designed, but the consensus is that the stream does not look natural with its constant narrow width and lining of small stones. To have a more natural look, portions of the stream liner need to be reworked to create wider areas, and additional material must be added to cover the liner. Also, larger rock needs to be randomly positioned along the stream to complete the natural character. These changes are very important to the total appearance of the area and the successful recreation of these historic features.

Reconstruct portions of the stream to create a varied width	\$3,136.00
Randomly place large rocks along the length of the stream	860.00

City workers removed a few existing trees near the pond to eliminate some grade conflicts, improve the appearance of the area, and to make the pond more accessible for the public to enjoy. However, this caused the contractor to need to haul in additional soil to complete the grading for the pond.

Added soil required for completing the grading for the pond.	\$500.00
Total cost of Change Order No. 8	\$13,536.00

This Change Order will be funded from the project budget. (Project No. 390148, OCA No. 785016)  
The unencumbered balance is \$513,118.09.

Total Change Orders to date will be 6.03% of the Original Contract amount, which is within the maximum limit of 10% of the construction contract as set by City Council policy.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 484

Motion--  
--carried

Mayans moved that the Change Order be approved and the necessary signatures authorized.  
Motion carried 7 to 0.

## **KANSAS FOODBANK KANSAS FOODBANK WAREHOUSE, INC. CONTRACT AMENDMENT. (DISTRICT I)**

Agenda Report No. 04-0456

On July 1, 2002 the City Council approved the contract to provide CDBG funding in the amount of \$250,000 to assist Kansas Foodbank Warehouse in construction of the new warehouse.

The CDBG contract expires June 30, 2004. The Kansas Foodbank Warehouse, Inc. requests to extend the existing contract to June 30, 2005.

A shortfall in private funds to start construction for the warehouse has delayed the project. However, fund raising is ongoing for the \$3.7 million project. The Kansas Foodbank Warehouse has received \$2,544,642 in pledges, and of those pledges \$1,495,083 in cash has been received. The Kansas Foodbank has received a Challenge Grant from the Mabee Foundation in the amount of \$775,000 and a grant from the Kresge Foundation is pending for \$400,000.

The CDBG funded activities for demolition, clearance and moving utilities started May 6, 2003. The buildings have been demolished and site grading has been completed. The Kansas Foodbank Warehouse has expended approximately 70% of the CDBG funds. The balance of \$76,773 of the remaining CDBG funds will assist in funding the construction of the warehouse.

There is no change in the amount of approved CDBG funding for this project.

Motion--  
--carried

Mayans moved that the contract amendment be approved and the necessary signatures be authorized.  
Motion carried 7 to 0.

## **KDOT GRANT GRANT WITH THE KANSAS DEPARTMENT OF TRANSPORTATION.**

Agenda Report No. 04-0457

On May 10, 1999, Governor Bill Graves signed into law House Bill 2071, which provides for a new state Comprehensive Transportation Program (CTP). The CTP provides funding to address highway, short line railroad, aviation and public transportation needs over the next ten years.

Under the provision of the CTP, the City of Wichita has been allotted \$1,085,375 for FY 2005 (July 1, 2004 through June 30, 2005), which may be used for capital or operating expenditures.

The KDOT grant application process requires official action by the governing body authorizing the filing of grant applications, execution of approved grants, and receiving funds to administer the grant's program. The purpose of this action is to authorize the City of Wichita - Wichita Transit to file for eligible state funds in support of the City's transit services for capital purchases and operations. This action is similar to what the City filed for KDOT's FY 2004 funds last year.

The grant will provide for the following:

- Local matching funds requirements for the purchase of up to 8 replacement paratransit vans, benches and shelters, 2 mall based mini-transfer stations, and various building renovations to both Wichita Transit facilities, and
- Continuing KDOT-funded service enhancements, including enhanced midday fixed route operations, associated fuels, operations safety program, and ADA paratransit support.

The \$1,085,375 funds will be divided into Operations (\$730,000) and Capital (\$355,375) as the local match (20%) for federal capital funding (80%). There are no City funds involved in this project.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 485

The City Law Department will review the contract prior to execution as to form.

Motion-- Mayans moved that the filing for the grant with KDOT be approved and the Mayor be authorized to  
--contract execute the contract. Motion carried 7 to 0.

## **SENIOR MANAGMNT EXPENSE FOR SENIOR MANAGEMENT.**

Motion--carried Mayans moved to receive and file the report. Motion carried 7 to 0.

## **EQUUS BEDS EASEMENT EQUUS BEDS GROUNDWATER RECHARGE PROJECT/HARVEY COUNTY.**

Agenda Report No. 04-0459

On August 3, 1993 the City Council approved the Water Supply Plans prepared by Burns & McDonnell/MKEC Engineering Consultants. The Plan identified cost-effective water resource projects to meet the City's future water needs. On October 10, 2000 City council approved the projects and implementation of the plan. One portion of the Water Supply Plan is the groundwater recharge project which includes the capture of above base flow water (water which is generated from rainfall runoff above the base river flow) in the Little Arkansas River, the transfer to and storage of captured water in the aquifer, and the recovery and use of this water to meet future demands for the City of Wichita. The Equus Beds Aquifer underlies portions of Sedgwick, Harvey, McPherson and Reno Counties and is located within the boundaries of Groundwater Management District No.2. Since the 1950's water levels in the aquifer have dropped 20 to 40 feet and as a result of heavy utilization.

Sites for the testing and access easements were selected by the project consultants. The proposed easements will be used for boreholes and the installation of piezometers, devices to measure the underground water level, within the Harvey County project area. The boreholes and piezometers will help define the hydrogeologic makeup of the proposed sites for capture of above base flow water in the Little Arkansas River. The City has successfully negotiated the purchase of a temporary easement for the installation of four borewells and piezometers for \$750.00.

Funds for the property are available through the Water Supply Plan, as approved by the Council in October of 2000. A budget of \$750.00 for the easement is requested.

Motion-- Mayans moved that the Budget and Easement Agreement be approved; and the necessary  
--carried signatures be authorized. Motion carried 7 to 0.

## **COWSKIN CREEK PERMANENT EASEMENT OVER A PORTION OF 12600 WEST 13TH STREET NORTH FOR 13TH STREET BRIDGE OVER COWSKIN CREEK. (DISTRICT V)**

Agenda Report No. 04-0460

The City Council has approved the construction of a new bridge over the Cowskin Creek at 13th Street North. Part of the planned development calls for widening the right-of-way for 13th Street on the west side of the creek. This will require the acquisition of part of the property owned by Steve Peeples at 12600 West 13th Street North.

The tract required for right-of-way contains approximately 15,810 square feet. A temporary easement containing 24,410 square feet is also required. The project will cause the removal of property fencing, the entryway gate, several trees and part of the irrigation system. The owner has agreed to sell the required parcels to the City for \$36,500.

The funding source is general obligations bonds. A budget of \$37,000 is requested. This includes \$34,500 for the easement and \$500 for title work and closing costs.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 486

Motion--  
--carried

Mayans moved that the budget be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## **SURPLUS PROPERTY SALE OF SURPLUS PROPERTY LOCATED AT 1216 NORTH POPLAR. (DISTRICT I)**

Agenda Report No. 04-0461

An offer has been received for the City-owned vacant lot at 1216 North Poplar. The property is a 6,500 square foot residential lot. It was acquired by the City in 1994 as part of the infill project but was surplus to the project. It has been offered for sale since 1994.

An offer of \$500 has been received by a property owner in the area. The buyer intends to maintain the property and possibly use it as a garden. The buyer wants to maintain and increase the overall environment of the area.

The City will receive cash consideration from the sale of the property at closing.

Motion--  
--carried

Mayans moved that the Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 7 to 0.

## **SURPLUS PROPERTY MARKETING OF SURPLUS PROPERTY AT 1ST STREET AND EMPORIA. (DISTRICT VI)**

Agenda Report No. 04-0462

Interest has been expressed in the City-owned parcel located at the southeast corner of 1st Street and Emporia. The parcel contains 7,000 square feet and is improved as an asphalt parking lot with spaces for 27 vehicles. The owner of the adjacent building has inquired about the parcels availability. He is seeking additional parking to support his property. He currently has 17 spaces to support the 11,600 square foot building. The parcel was acquired in 2000 along with a 128-space lot located in the middle of the block.

City staff has reviewed the request and has no objections to marketing the parcel. Currently 8 of the 27 spaces are leased. Demand is expected to decrease when Foulston-Siefken moves out the area. Most of the buildings in the immediate area have their own parking on site.

It is recommended that the property be placed on the City's for-sale list on the internet for a minimum of 30 days. In addition, the business owner who has expressed and interest will be asked to formalize his offer. Any sale will be brought back to the City Council for approval.

The City will receive cash consideration for the sale of the property. Upon sale, the property will return to the tax rolls.

The Law Department will approve any contracts as to form.

Motion--  
--carried

Mayans moved that the property surplus be declared and the marketing strategy as described be approved. Motion carried 7 to 0.

## **MURDOCK BRIDGE MURDOCK BRIDGE OVER THE LITTLE ARKANSAS RIVER. (DISTRICT VI)**

Agenda Report No. 04-0463

On December 2, 2003, the City Council approved a project to reconstruct the Murdock Bridge over the Little Arkansas River. Based on current construction costs, it is doubtful that a construction contract can be awarded within the limits of the current budget. The City's share of the previously approved budget is sufficient, but additional Federal funding is needed to construct the project.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 487

The current budget totals \$1,050,000, with \$400,000 paid by the City and \$650,000 by Federal Grants administered by the Kansas Department of Transportation. The revised budget is \$1,200,000 with \$400,000 paid by the City and \$800,000 by Federal Grants. The funding source for the City share is General Obligation Bonds. The project is scheduled to bid May 7, 2004.

Motion--carried

Mayans moved that the Ordinance be placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An Ordinance amending Ordinance No. 45-950 of the City of Wichita, Kansas declaring Murdock Bridge over the Little Arkansas River (472-83895) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

CASE NO.04-0448

### **PAYMENT OF CONDEMNATION AWARD –CASE NO. 04-0448-FIRST AND SECOND STREETS OUTFALL PROJECT. (DISTRICT VI)**

Agenda Report No. 04-0464

The City has identified the need to acquire a tract of land located at 202 N. Gow in connection with a project for stormwater drainage improvements to the area of Douglas and West Streets. The land is owned by the Marcia A. Finley Living Trust. Earlier this year the City initiated eminent domain proceedings to acquire this property. On April 13, 2004, the court appointed appraisers filed their award. They determined the compensation to be paid for the acquisition of the property to be \$205,000.00. The court awarded the three appraisers fees in the amount of \$2,500.00 each. Court costs are \$111.

In order for the City to acquire this property, it must pay the award, together with fees and costs, to the Clerk of the District Court on or before May 14, 2004.

The costs of acquiring these properties will be paid from project funds.

The City has until May 14, 2004, to decide whether or not to acquire the property. If payment is not made to the Clerk by that date, the eminent domain is deemed abandoned.

Motion--

Mayans moved that the payment to the Clerk of the District Court in the amount of \$212,611.00 for acquisition of property interests condemned in Case No. 04 CV 0448 be authorized. Motion carried 7 to 0.

--carried

## ORDINANCES

### **SECOND READING ORDINANCES: (FIRST READ APRIL 20, 2004)**

- a) Hydraulic improvement, between 57th Street South and 47th Street South. (District III)

## ORDINANCE 46-142

An Ordinance amending Ordinance No. 45-989 of the City of Wichita, Kansas, declaring Hydraulic, between 47th Street South and 57th Street South (472-83902) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 488

- b) Central, Tyler to Woodchuck and signalization at Socora. (District V)

## ORDINANCE 46-143

1) An Ordinance amending Ordinance 45-217 of the City of Wichita, Kansas, declaring Central Avenue, between Tyler and Woodchuck (472-83192) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## ORDINANCE 46-144

2) An Ordinance amending Ordinance No. 45-506 of the City of Wichita, Kansas, declaring Central Avenue, between Maize Road and Tyler Road (472-83659) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

- c) ZON1001-51 - north of Maple and on the west side of 167th Street West. (County)

## ORDINANCE 46-145

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. ZON 2001-51

## **PLANNING AGENDA**

John Schlegel

Planning Director reported that item 35 is not a consent item.

Motion--carried

Mayans moved to approve Planning Items 36 through 44 as presented. Motion carried 7 to 0.

**(Item 35)**  
**CON2003-48**

**CON2003-48 - CONDITIONAL USE FOR COMMUNITY ASSEMBLY ON PROPERTY ZONED "SF-5" SINGLE-FAMILY RESIDENTIAL, GENERALLY LOCATED ON THE SOUTH SIDE OF 13TH STREET NORTH APPROXIMATELY 1/4 MILE EAST OF RIDGE ROAD. (DISTRICT V)**

John Schlegel

Planning Director reviewed the item.

Agenda Report No. 04-0465

MAPC Recommendations: Approve, subject to platting within one-year and conditions. (10-1)  
DAB Recommendations: Approve, subject to platting within one-year and conditions. (4-1)  
MAPD Staff Recommendations: Approve, subject platting within one-year and conditions.

The applicant is seeking a Conditional Use to permit "community assembly" on a 25-acre site that is located on the south side of 13th Street North, ¼ mile east of Ridge Road. The applicant would like, at some point in the future, to develop the site for a Midian Shrine temple. At this time a construction schedule has not been determined. The temple would be a two-story, maximum height of 35-feet,

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 489

27,000 square foot building located approximately 1200 feet south of 13th Street. Although no elevation drawings are available at this point in time, the site plan indicates the building would have architecture compatible with the surrounding area. (Homes to the west were developed after 1959, and constructed of both brick and wood, while the single family homes to the east were developed in the 1990's, and are also a combination of wood and brick construction.)

Parking for 216 vehicles would be located east and south of the proposed temple. Parking is to be screened to the east, south and west, as shown on the site plan.

A playground containing baseball/softball diamond and a soccer field is proposed south of the parking area. These ball fields are to be used by Shriners and their families. The ball fields are not intended for use for large-scale league play like the West Urban fields located to the north.

A 6,000 square foot restroom and storage building would be located west of the parking lot, between the temple building and the playground.

Primary access is to be provided by a long driveway connecting the temple with 13th Street. A second point of access to the site would be a gated and restricted to emergency access only connection to Hazelwood, a residential street located to the west.

The site plan also shows berms and landscaping to be installed along both sides of the application area between 13th Street and the southern end of the parking lot.

The applicant indicates that during a normal workweek 10 staff members are generally present Monday through Friday, and they maintain office hours of 8:00 a.m. to 5:00 p.m. On a typical day approximately 75 non-employees visit the site; that number increases to up to 100 for typical evening meetings or functions. The maximum number of people who typically attend their largest functions is approximately 300 people.

Property surrounding the site is zoned a variety of residential districts: "SF-5" Single-family Residential, "SF-20" Single-family Residential and "MF-29" Multi-family Residential. Surrounding properties are developed with: public park, single- and multi- family housing. There is a lake located immediately east of the application area that is mostly owned by the Spinnaker Cove subdivision, however the application area also includes a narrow sliver of the western side of the lake that is owned by the applicant. Therefore, ownership of the lake is divided between the Spinnaker Cove homeowners' association.

The site plan depicts two monument signs at the entrance of the site at 13th Street. The "SF-5" zoning district does not permit this type of signage. A variance from the Board of Zoning Appeals would have to be obtained to permit the proposed signage.

Community Assembly is defined in the Unified Zoning Code as "an establishment providing meeting, recreational, educational, cultural, or social facilities for a private membership or non-profit association, primarily for use by members and guests. Typical uses include fraternal organizations."

After two public hearings, on April 8, 2004, the Metropolitan Area Planning Commission recommended approval, subject to eight conditions, by a 10-1 vote. The conditions of approval include: the site shall be developed in substantial conformance with the approved site plan; signage shall be per the Sign Code; buildings constructed on the site shall be architecturally compatible with surrounding residences; parking lot lighting standards limited to 14 feet in height; screening of trash receptacles and heating and air conditioning units shall be required; lighting of outdoor play fields is prohibited; the Conditional Use can be declared null and void after appropriate findings of a violation of the conditions of approval and a requirement that the applicant dedicate a 30-foot public access easement to connect the two public parks located adjacent to the subject property.

Residents from both adjacent neighborhoods – Country Acres and Spinnaker Coves – expressed opposition to the request. For Spinnaker Coves, their primary concern dealt with access and use of the lake. The ownership of the lake is divided between Spinnaker Coves' homeowners association and the applicant. Due to that ownership pattern, the Shriners would have the right to utilize that portion of the

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 490

lake they would own, and it was represented at MAPC that the Shriners would also have rights to use all of the lake, based upon a covenant agreement, so long as the Shriners followed Spinnaker Cove lake use regulations. Spinnaker Coves' residents stated that they have been told by their insurance carrier they will not be able to maintain liability insurance on their part of the lake, if the Shrine and its large membership, has access to the lake. The supporting material provided by Spinnaker Coves' representatives say that the Shrines large membership creates so great a liability, that they can not find a carrier who will insure the homeowners' association against such a liability. It is Spinnaker Coves' contention that the lake, and the recreational amenity it provides, is a focal point of their development. If Spinnaker Coves' homeowners' association were not able to maintain liability insurance, they would have to close the lake in order to protect the association from claims, thereby substantially reducing the attractiveness of the development, and resulting in a loss of property values. Spinnaker Coves also contends the Shrine operates more like a commercial business and is not an appropriate use at this location. They also expressed concern over the proximity of the development's entrance relative to the bridge on 13th Street, located at the north end of Spinnaker Coves' lake. They feel it creates an unsafe traffic conflict.

The Shriners indicated that they have been able to find an insurance carrier that will cover their use of the lake.

County Acres' residents wanted assurances regarding: drainage; preservation of the two parks located in between the application area and the neighborhood; use of Hazelwood to access the site; lighting of ball fields and traffic impacts on 13th Street. Neighbors were advised that a drainage plan would be provided at the time of platting, and the plan will be reviewed and approved by city public works staff. The two city parks are not included in the application area, and they would remain as such. Access to Hazelwood is limited to emergency access only; Shriner access is to be restricted to 13th Street. Lighting of outdoor ball fields is to be prohibited. 13th Street is constructed to a standard that will adequately carry the traffic generated from the application area. Also, the location of the site's access point will be determined at the time of platting, and any additional turn lanes or deceleration lanes needed will be requested at the time of platting. County Acres' residents are opposed to the Shriner's offer to grant a pedestrian easement to allow for a walking path along the west side of their property. That would place the path along the rear of the Country Acres' lots. The Planning Commission included such a requirement in their conditions of approval.

District Advisory Board V heard this request on January 5, 2004, and recommended approval 3-1.

Initially, protest petitions representing 24.11 percent of the notice area were filed. However, nearly all of property owners in the Country Acres Addition have withdrawn their protest, reducing the protest to 18.83 percent. They withdrew their protest when the Shriners agreed to withdraw their offer to voluntarily offer the pedestrian easement (even though the MAPC motion contains that requirement).

Motion--

--carried

Martz moved that the Council concur with the findings of the MAPC and approve the Conditional Use to permit community assembly subject to the recommended conditions; and that the Resolution be adopted. Motion carried 7 to 0.

## RESOLUTION NO. 04-216

A Resolution authorizing a conditional use for community assembly on 25.0 acres zoned "SF-5" Single-Family Residential, located on the south side of 13th Street North, approximately 1/4 mile east of Ridge Road in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-D, as adopted by Ordinance No. 44-975, as amended, presented. Martz moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.



# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 491

V-2043

**V-2043 - REQUEST TO VACATE A PORTION OF THE COVINGTON STREET RIGHT-OF-WAY, GENERALLY LOCATED NORTHEAST OF THE 21ST STREET NORTH – 119TH STREET WEST INTERSECTION, MORE SPECIFICALLY NORTH OF THE 21ST STREET NORTH – PARKRIDGE STREET INTERSECTION. (DISTRICT V)**

Agenda Report No. 04-0466

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimous)

The applicant is requesting vacation of the platted Covington Street right-of-way that abuts Reserve C, Reserve B and the Parkridge Street right-of-way as dedicated on the Aberdeen First Addition. The Aberdeen First Addition was recorded May 5, 1994.

The approximately 64-foot (x) 232-242-foot Covington Street right-of-way (ROW) dead ends into Reserve B of the Lochs at Aberdeen on its east side. There is also a developed church property on the southeast corner of the Covington ROW. Extension of Covington ROW to the east is blocked by this reserve and church development. Reserves A & B of the Aberdeen First Addition contain retention ponds, which prevent the Covington ROW from extending north or south. There is no water or sewer in the ROW. There are no franchised utilities in the ROW. Both Public Works and the utility representatives have indicated that the ROW will not be needed for future location of utilities within the ROW. The applicants' propose to convert the ROW into a neighborhood commons area. No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

VAC2004-10

**VAC2004-10 - REQUEST TO VACATE PORTIONS OF PLATTED SETBACKS, GENERALLY LOCATED NORTHWEST OF 123RD STREET EAST AND 21ST STREET NORTH, ALONG ROSEMONT CIRCLE, CAMDEN CHASE ROAD AND PECKHAM COURT. (DISTRICT II)**

Agenda Report No. 04-0467

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimous)

The applicant is requesting vacation of 5-feet off the platted 25-foot front yard setbacks on Lots 1-8, Block 2, Hawthorne Second Addition, Lot 18, Block 1, Hawthorne Addition and Lot 7, Block 1, Hawthorne Second Addition. The Hawthorne Addition was recorded December 12, 2002. The Hawthorne Second Addition was recorded September 18, 2003.

The applicant proposes to build houses on all the lots, which have mature hedgerows located in the rear yards. The setback reduction will increase the likelihood of preservation of the hedgerows. The UZC's standard for a front yard setback for the "SF-5" zoning district is 25-feet. If the front setbacks were not platted, the applicant could have applied for an administrative adjustment to reduce the 25-foot setback by 20 percent; a 5-foot reduction, which is what the applicant is requesting. There is sewer, but no water, in a 20-foot easement located within the platted 25-foot setback in Lots 1-8, Block 2, Hawthorne Second Addition and Lot 18, Block 1, Hawthorne Addition. No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation. No written protests have been filed.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 492

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

**VAC2004-11**

**VAC2004-11 - REQUEST TO VACATE A PORTION OF A PLATTED BUILDING SETBACK AND DRAINAGE AND UTILITY EASEMENT, GENERALLY LOCATED MIDWAY BETWEEN 21ST STREET NORTH AND 29TH STREET NORTH, EAST OF WOODLAWN BOULEVARD, MORE SPECIFICALLY SOUTHEAST OF THE 25TH STREET NORTH – MAINSGATE STREET INTERSECTION, 2609 AND 2611 CAMERON. (DISTRICT I)**

Agenda Report No. 04-0468

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimous)

The applicant is requesting consideration for the vacation of the west 3-feet of the north 26.5-feet of the platted 20-foot drainage/utility easement – setback that runs parallel to the east property line of Lot 8, Block 1, The Village at Waterford Addition. The Village at Waterford Addition was recorded with the Register of Deeds August 13, 1993.

The applicant proposes the vacation of the easement/setback to remove the house's overhang of the roof out of the platted easement/setback. There is no sewer in the platted easement, but there is water in it. Public Works and Storm Water have approved the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds

Motion--  
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

**SUB 2003-48**

**SUB 2003-48 - PLAT OF PRAIRIE POINTE ADDITION, LOCATED ON THE NORTH SIDE OF 37TH STREET NORTH, WEST OF MAIZE ROAD. (DISTRICT V)**

Agenda Report No. 04-0469

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (8-5)

This unplatted site, consisting of 116 lots on 53 acres, is located with Wichita's city limits and is zoned SF-5, Single-Family Residential District. The negative Planning Commission votes indicated the concerns with a street stub extending to the west, which was not required by the Planning Commission. Subsequent to the MAPC meeting, the applicant has voluntarily revised the plat to include the street stub.

Petitions, 100 percent, and a Certificate of Petitions have been submitted for paving, drainage, sidewalks, sewer, water and left-turn lane improvements. A Restrictive Covenant was submitted to provide four (4) off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street. Also, a Restrictive Covenant was also submitted to allow the creation of a homeowner's association to provide for the ownership and maintenance of the reserves.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty - (30) days.

The Certificate of Petitions and Restrictive Covenants (2) will be recorded with the Register of Deeds.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 493

Motion--  
--carried

Mayans moved that the documents and plat be approved; the necessary signatures authorized and the Resolutions adopted. Motion carried 7 to 0.

## RESOLUTION NO. 04-217

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89950 (north of 37th Street North, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-218

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89951 (north of 37th Street North, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-219

Resolution of findings of advisability and Resolution authorizing construction of Lateral 1, Main 7, Northwest Interceptor Sewer 468-83807 (north of 37th Street North, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## SUB 2003-125

### **SUB 2003-125 - PLAT OF GRANDVIEW TERRACE SECOND ADDITION, LOCATED EAST OF HILLSIDE, ON THE NORTH SIDE OF CENTRAL. (DISTRICT I)**

Agenda Report No. 04-0470

Staff Recommendation: Approve the plat.  
MAPC Recommendation: Approve the plat. (10-0)

This site, consisting of one (1) lot on .87 acres, is a replat of a portion of Grandview Terrace Addition and is located with Wichita's city limits. This site has been approved for a zone change (ZON 2003-24) from TF-3, Two-Family Residential District to GO, General Office District. This site is also subject to a protective overlay (P-O #128) as established by the zoning case. Municipal services are available to serve the site.

A Notice of Protective Overlay has been submitted addressing uses, screening, building height and architectural design. In order to guarantee the closure of driveway openings located in areas of complete access control or that exceed the number of allowed openings, a Drive Approach Closure Certificate has been submitted.

The plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days. Publication of the Ordinance should be withheld until the Plat is recorded with the Register of Deeds.

The Notice of Protective Overlay and Drive Approach Closure Certificate will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the documents and plat be approved; the necessary signatures authorized; and the ZON2003-24 Ordinance be placed on first reading with publication being withheld until such time as the Plat is recorded with the Register of Deeds. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 494

## ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2003-24

SUB 2003-141

### **SUB 2003-141 - PLAT OF YSIDRO ADDITION, LOCATED NORTH OF MACARTHUR, ON THE EAST SIDE OF BROADWAY. (DISTRICT III)**

Agenda Report No. 04-0471

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (8-0)

This unplatted site, consisting of two (2) lots on 13.15 acres, is located within Wichita's city limits. A zone change (ZON 2003-70) for the eastern portion of lot two from SF-5, Single-Family Residential District to LI, Limited Industrial District has been approved. City water services are available to serve the site.

A Petition (100 percent) and a Certificate of Petition have been submitted for sewer and left-turn lane improvements. A Cross-Lot Drainage Agreement and an Off-Site Drainage Agreement have been submitted. A Restrictive Covenant was submitted that permits future cross-lot access with the abutting property owners to the north and south of lots one and two.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

The Certificate of Petition, Cross-Lot Drainage Agreement, Off-Site Drainage Agreement and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--

-- carried

Mayans moved that the documents and Plat be approved; the necessary signatures be authorized; the Resolutions be adopted; and the ZON 2003-70 Ordinance be placed on first reading with publication being withheld until such time as the plat is recorded with the Register of Deeds. Motion carried 7 to 0.

## RESOLUTION NO. 04-221

Resolution of findings of advisability and Resolution authorizing construction of Lateral 96, Main 1, Southwest Interceptor Sewer 468-83805 (north of MacArthur, east of Broadway) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-222

Resolution of findings of advisability and Resolution authorizing constructing a left turn lane on Broadway Avenue to serve Lots 1 and 2, Ysidro Addition 472-84022 (north of MacArthur, east of Broadway) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2003-70

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 495

SUB 2004-30

**SUB2004-30 - PLAT OF SISTERS OF ST. JOSEPH SIXTH ADDITION, LOCATED EAST OF HILLSIDE, ON THE SOUTH SIDE OF LINCOLN (EXTENDED). (DISTRICT III)**

Agenda Report No. 04-0472

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-0)

This unplatted site, consisting of two lots on 5.2 acres, is located within Wichita's City limits. A zone change (**ZON 2004-08**) from TF-3, Two-Family Residential District to GO, General Office District is scheduled for approval along with this plat. City water services are available.

A 100 percent Petition and a Certificate of Petition for the extension of a sanitary sewer have been submitted. A Sidewalk Certificate has also been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days. Publication of the Ordinance should be withheld until the Plat is recorded with the Register of Deeds.

The Certificate of Petition and Sidewalk Certificate will be recorded with the Register of Deeds.

Motion--

-- carried

Mayans moved that the documents and plat be approved; the necessary signatures authorized; the Resolution be adopted and the ZON2004-08 Ordinance be placed on first reading with publication being withheld until such time as the Plat is recorded with the Register of Deeds. Motion carried 7 to 0.

## RESOLUTION NO. 04-223

Resolution of findings of advisability and Resolution authorizing construction of Lateral 111, Main 2, Sanitary Sewer No. 12, 468-83811 (east of Hillside, south of Lincoln) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. (ZON 2004-08)

ZON2004-07

**ZON2004-07 - ELIMINATE RESTRICTION #5 OF RESTRICTIVE COVENANT #28 TO ALLOW A SIGN PER THE UNDERLYING "LC" LIMITED COMMERCIAL ZONING DISTRICT, GENERALLY LOCATED NORTH OF MAPLE AND WEST OF RIDGE. (DISTRICT V)**

Agenda Report No. 04-0473

MAPC Recommendations: Approve, subject to provisions of Protective Overlay #135. (11-0)

MAPD Staff Recommendations: Approve, subject to provisions of Protective Overlay #135.

The applicant requests elimination of Restriction #5 of Restrictive Covenant #28 on a 0.7 acre platted tract located north of Maple and west of Ridge that is currently developed with a carpet showroom. The purpose of the request is to allow a sign per the underlying "LC" zoning district as opposed to the "BB" (now "GO") zoning district as required by Restrictive Covenant #28. The proposed sign is 17'5" tall and 84.2 square feet in size. Such a sign would be permitted by Restrictive Covenant #28, if the sign were for a multi-tenant building containing at least four tenants. Since the subject property has a single tenant, only a 32-square foot sign is permitted by Restrictive Covenant #28.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 496

The surrounding area is characterized by commercial development located at the Maple and Ridge intersection. The properties to the north, south, and east are zoned "LC" Limited Commercial and are developed with various commercial uses. The properties to the west are zoned "SF-5" Single-Family Residential and are developed with single-family residences. The view of the proposed sign from the single-family residences to the west, is blocked by the carpet showroom building.

At the MAPC hearing on April 8, 2004, there were no speakers in opposition to the request. The MAPC voted (11-0) to recommend that Restrictive Covenant #28 be eliminated and to establish Protective Overlay District #135 that contains the following provisions:

1. Uses on the property shall be limited to: all uses permitted under the "NR" Neighborhood Retail district regulations, and a carpet showroom, which will display carpet samples for sale, but does not include the storage or warehousing of any carpet product.
2. A minimum 20 foot landscaped area shall be maintained along Brunswick with solid screening of evergreen trees planted and maintained in this area, except the south 25 feet of the property.
3. A wrought iron fence shall be constructed along the west property line.
4. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent residential zoning district across Brunswick.
5. A maximum of one pole or monument sign shall be permitted. No signs shall be permitted along the Brunswick frontage.
6. A minimum building setback line of 35 feet shall be required along the Maple St. frontage.

Motion--

Mayans moved to concur with the findings of the MAPC and eliminate Restrictive Covenant #28 and establish Protective Overlay District #133; place the ordinance establishing the Protective Overlay District on first reading. Motion carried 7 to 0.

--carried

## ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2004-07

ZON2004-08

### **ZON2004-08 - ZONE CHANGE FROM "TF-3" TWO-FAMILY RESIDENTIAL TO "GO" GENERAL OFFICE, GENERALLY LOCATED AT THE NORTHEAST CORNER OF CLIFTON AND BAYLEY. (DISTRICT III)**

Agenda Report No. 04-0474

MAPC Recommendations: Approve, subject to platting within one-year. (10-0)

DAB Recommendations: Approve, subject to platting within one-year. (8-0)

MAPD Staff Recommendations: Approve, subject to platting within one-year.

The applicant requests a zone change from "TF-3" Two-Family Residential to "GO" General Office on a 5.2 acre unplatted tract located at the northeast corner of Clifton and Bayley. The applicant proposes to construct a one-story brick office building to house the computer networking center and associated staff for Via Christi Regional Medical Center. The proposed use is first permitted in the "GO" General Office zoning district.

The surrounding area is characterized by a mixture of residential, institutional, and medical related uses. The predominate uses in the area are the Sisters of St. Joseph Convent that is located north and east of and immediately adjacent to the subject property and the Via Christi Regional Medical Center St. Joseph Campus that is located one block south of the subject property. The abutting property to the north is zoned "TF-3" Two-Family Residential and "GC" General Commercial and is developed with a

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 497

convent. The "GC"-zoned portion of the property located to the north was rezoned to permit a heliport for the St. Joseph hospital. The abutting property to the east is zoned "B" Multi-Family and is developed with a medical support office building. The properties located to south across Bayley and to the west across Clifton are zoned "TF-3" Two-Family Residential and are developed with single-family residences.

At the DAB Hearing on April 7, 2004, and the MAPC hearing on April 8, 2004, several nearby residents spoke in opposition to the request citing concerns with negative impacts of commercial development on residential property values, increased traffic, loss of open space, and creating a precedent for additional commercial zoning and uses in the neighborhood. Both the DAB (8-0) and the MAPC (10-0) recommended approval of the zone change subject to platting the property within one year. The plat for the property (Sisters of St. Joseph Sixth Addition) is scheduled for City Council action at the same meeting as the zone change request.

One neighboring property owner submitted a written protest petition. While the protesting neighbor's property is partially within 200 feet of the area proposed for rezoning, the land area represented by the written protest is significantly less than the 20% required to trigger the three-fourths vote requirement. Therefore, the request may be approved a by a simple majority vote of the City Council.

Motion--  
--carried

Mayans moved to concur with the findings of the MAPC and approve the zone change.  
Motion carried 7 to 0.

## AIRPORT AGENDA

### RYAN AIRLINES

#### RYAN INTERNATIONAL AIRLINES – SUPPLEMENTAL AGREEMENT NO. 4 – CARGO BUILDING.

Agenda Report No. 04-0475

The current agreement with Ryan International for use of space in the cargo building commenced July 1, 1996. Ryan currently leases 1,200 sq. ft. of office/warehouse space located at 2229 Air Cargo Road. The company has expressed a need for additional space.

A 3,000 sq. ft. area is available in the cargo building, which will accommodate Ryan's requirements for additional space. The space is located 2217 Air Cargo Road.

Rental rates in the cargo building are \$6.50 per sq. ft. Annual rent for use of the space leased by Ryan International will be \$19,500, or \$1,625 per month.

Motion--  
--carried

Mayans moved that the supplemental agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## HOUSING AGENDA

### SECTION 8

#### SECTION 8 HOUSING CHOICE VOUCHER APPLICATION.

Agenda Report No. 04-0476

Motion--  
--carried

Mayans moved to pull the agenda item at the request of the Housing Authority. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 180

MAY 4, 2004

PAGE 498

## RECESS

Motion-- Mayans moved that the City Council recess into Executive Session at 12:15 p.m. to consider: Consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation; potential litigation; legal advice; contract negotiations; personnel matters of non-elected personnel and confidential data relating to the financial affairs or trade secrets of a business and that the Council return from Executive Session no earlier than 1:15 p.m. and reconvene in the City Council Chambers. Motion carried 7 to 0.

--carried

## RECONVENE

The Council Members reconvened in the Council Chambers at 1:20 p.m.

Mayor Mayans Mayor Mayans announced that no action was taken.

Motion--carried Mayans moved to adjourn the Executive Session at 1:20 p.m. Motion carried 7 to 0.

Motion--carried Mayans moved to adjourn the Regular Meeting at 1:21 p.m. Motion carried 7 to 0.

Adjournment The City Council Meeting adjourned at 1:21 p.m.

Karen Sublett  
City Clerk

**\*\*Workshop to follow in Board Room\*\***